

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION  
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ROBERT HOLTON, et al : FEBRUARY TERM, 2018  
vs. :  
CITY OF PHILADELPHIA : NO. 01429  
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FEBRUARY 16, 2018  
COURTROOM 426  
CITY HALL  
PHILADELPHIA, PENNSYLVANIA

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EMERGENCY MOTION FOR PRELIMINARY INJUNCTIVE RELIEF  
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BEFORE: HONORABLE ABBE F. FLETMAN, J.  
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APPEARANCES:

JACK BERNARD, ESQUIRE  
FOR THE PLAINTIFF  
EDWARD JEFFERSON, ESQUIRE  
DEPUTY CITY SOLICITOR  
CHRISTOPHER JOHNSON, ESQUIRE  
ASSISTANT CITY SOLICITOR  
FOR THE CITY OF PHILADELPHIA

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1 THE COURT CRIER: State and spell  
2 your name for the record.  
3 THE WITNESS: Robert Holton.  
4 THE COURT CRIER: Please spell it.  
5 THE WITNESS: R-O-B-E-R-T  
6 H-O-L-T-O-N.  
7 (Mr. Holton sworn.)  
8 THE COURT CRIER: Counsel, if you  
9 want to put your appearance on the record,  
10 please.  
11 MR. BERNARD: Thank you.  
12 Jack Bernard for the plaintiff,  
13 Robert Holton.  
14 MR. JEFFERSON: Edward Jefferson on  
15 behalf of the City of Philadelphia.  
16 Good morning, Your Honor.  
17 THE COURT: All right. Good morning,  
18 everyone.  
19 All right. Mr. Bernard, I will hear  
20 from you.  
21 MR. BERNARD: Thank you, Your Honor.  
22 May I sit?  
23 THE COURT: You may. Thank you.  
24 What is important is to use the  
25 microphone.

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1 MR. BERNARD: Yes, I understand that.  
2 Your Honor, this matter is before you  
3 for the second time; when I say this matter, I  
4 am talking about the underlying dispute. The  
5 last time we were here, we sought what a  
6 amounted to a temporary restraining order , but,  
7 of course, it is called a preliminary  
8 injunction, and it was denied. We sought that  
9 pending the outcome of a proceeding before the  
10 Licenses & Inspections Review Board. That  
11 proceeding went forward. Mr. Holton was  
12 represented by counsel, other counsel, and the  
13 L&I Review Board unanimously decided in favor  
14 of the Department of Licenses and Inspections,  
15 so that case is pending and it has been  
16 appealed to the Court of Common Pleas. So , the  
17 reason we were here last time is no longer  
18 applicable, obviously.  
19 We are seeking preliminary injunctive  
20 relief, Your Honor, and we are going to  
21 establish through Mr. Holton's testimony that  
22 these are manufactured violations, that there  
23 are no violations, and that the underlying  
24 dispute really has to do with the city's  
25 attempt to acquire a piece of property from

1 Mr. Holton without going through eminent  
2 domain. I realize that is a strong statement,  
3 but we believe it is true.  
4 THE COURT: Well, what is the  
5 emergency? Why are you here on an emergency  
6 basis?  
7 MR. BERNARD: Yes, Your Honor.  
8 Attached to the complaint is a notice from the  
9 City of Philadelphia shutting down Mr. Holton's  
10 business and so we are seeking preliminary  
11 injunctive relief so that that will not be done  
12 and that would be the urgent notice attached as  
13 Exhibit A, and that was to have taken place  
14 today. It is my understanding nothing has  
15 happened.  
16 THE COURT: Okay. Mr. Jefferson, do  
17 you want to make opening remarks or should we  
18 just go to testimony?  
19 MR. JEFFERSON: Thank you, Your  
20 Honor.  
21 Very briefly, I would like to make an  
22 opening.  
23 THE COURT: Sure.  
24 MR. JEFFERSON: Your Honor, this case  
25 comes about as a result of violations that were

1 written at an address that I am going to refer  
2 to as 4087 Richmond Street.  
3 THE COURT: Okay. And could you move  
4 that microphone towards you? Thank you. I  
5 think we have gotten the new system since you  
6 have been here last, but, amplification  
7 actually now works in this courtroom.  
8 MR. JEFFERSON: Thank you.  
9 THE COURT: So, it was?  
10 MR. JEFFERSON: 4087 Richmond Street,  
11 which is a property that does not exist on the  
12 city plan and it does not exist in the Office  
13 of Property Assessment. It is a lot without  
14 any kind of tax address. It is a lot that is  
15 within the right of way of the Frankford Creek.  
16 Now with respect to that particular  
17 portion of property, which is separate and  
18 apart from 4085 Richmond Street, which  
19 Mr. Holton owns and lawfully occupies, now --  
20 THE COURT: So, I am sorry. Are you  
21 saying that this cease operations order relates  
22 to 4087 and not 4085?  
23 MR. JEFFERSON: That's correct, Your  
24 Honor. It does not relate to 4085, which is  
25 lawfully owned by Mr. Holton and lawfully

1 operated as Final Destination, which is an auto  
2 salvage or wrecking place. This is a property,  
3 and when we get into the evidence, I will  
4 demonstrate that through various records and  
5 testimony. However, now how this came about  
6 and it has come about for a really long time --  
7 THE COURT: Let me stop you just for  
8 a second because I am not sure I am  
9 understanding.  
10 So, what is the effect of an urgent  
11 notice to cease operations on a property  
12 that -- does somebody own this property that  
13 doesn't exist?  
14 MR. JEFFERSON: The City of  
15 Philadelphia.  
16 THE COURT: Why would you do a  
17 cease -- an urgent notice to yourself?  
18 MR. JEFFERSON: Well, that is a  
19 wonderful question, Your Honor, and the reason  
20 that we have done that and the reason that we  
21 have cited violations for his unlawful use of  
22 the property, because he can't get a zoning  
23 permit. You need a zoning permit in order to  
24 be able to occupy a property and use it  
25 lawfully.

1 THE COURT: I see. You are saying  
2 that Mr. Holton was using this property.  
3 MR. JEFFERSON: Yes, Your Honor.  
4 THE COURT: All right. I am with  
5 you. All right.  
6 MR. JEFFERSON: Mr. Holton has been  
7 leasing the property or renting the property to  
8 an operator that was operating there as K  
9 Squad. I don't know what they are operating as  
10 now. So, anything he placed upon that  
11 property; albeit a trailer, multiple vehicles  
12 that are in disassembled or held for sale  
13 either by parts or in whole are there  
14 unlawfully, and the unlawful reason is what I  
15 have just stated. He cannot legalize it  
16 because he cannot get a permit to operate.  
17 THE COURT: Because he doesn't own  
18 it?  
19 MR. JEFFERSON: That's correct. He  
20 has no legal interest in the property.  
21 Now, the City of Philadelphia, even  
22 though there are people that trespass and use  
23 property that isn't theirs, we still give them  
24 process, and the process that we give them is  
25 to say that you can't occupy the property, you

1 know, for any purpose and that the property  
2 basically is continued to be used and we go  
3 through the process of having it heard by the  
4 board.

5 Now in this particular case,  
6 violations had been written and the cease  
7 operations was posted and given to Mr. Holton  
8 with respect to this property and that was in  
9 March of 2017.

10 Now in March of 2017, when we issued  
11 the cease operations, that is when counsel for  
12 the petitioner, Mr. Bernard, came to this court  
13 and asked that the cease operations be lifted  
14 and the cease operations was not lifted.  
15 Subsequently, the Board of Licenses &  
16 Inspections --

17 THE COURT: That was a different case  
18 number?

19 MR. JEFFERSON: I believe it was a  
20 different case number because counsel has since  
21 ended that first case, Your Honor.

22 So since the cease operations,  
23 Mr. Holton, albeit through either a tenant or  
24 himself, has continued to operate on the  
25 property in violation of the cease operations

1 order notwithstanding Your Honor's order  
2 upholding the cease.

3 So, the matter went to the Board of  
4 Inspections and Licenses Review and they held a  
5 hearing. At that hearing, which I can only  
6 represent in terms, I don't have the  
7 transcript, but I think this may be without  
8 dispute, okay? At that hearing the city put on  
9 evidence that Mr. Holton couldn't use the  
10 property because he couldn't get a use permit;  
11 he had no right to be there. You can't get a  
12 use permit without the authorization of the  
13 owner, and the board, hearing that and other  
14 violations, which Mr. Holton swore that he had  
15 corrected some of the violations, but  
16 notwithstanding that, he still couldn't use the  
17 property. The board affirmed the city in terms  
18 of the use permit and other violations that it  
19 had written.

20 Now, an appeal has been taken to  
21 that, Your Honor. However, when a cease  
22 operations is outstanding, to get relief from  
23 the cease operations you need to do something  
24 affirmative. You need to come to the court or  
25 you need to ask the board or somebody --

1 THE COURT: Well, isn't that why  
2 Mr. Holton is here today?

3 MR. JEFFERSON: No, I mean that is  
4 not why he is here today. This is way after  
5 the fact. This board hearing was held last  
6 year and since that time he has been operating  
7 this premises.

8 Now, when a person does not, under  
9 the law, have a right to occupy a use property,  
10 they need to cease the operations and remove  
11 any and all things related to the unlawful use,  
12 and we, the city basically has, you know, we  
13 have given him a lot of time to try to get rid  
14 of these things. The cease operations has been  
15 posted and, still, he continues to operate and  
16 still continues to have these, you know,  
17 vehicles and equipment on the property. So, it  
18 is coming to a time now where the city  
19 basically, the only way we can stop him is to  
20 remove the stuff and that is where we are and  
21 we gave him notice about that.

22 Now, I am going to add one other  
23 thing that I think is particularly important.  
24 After the Board of Licenses & Inspections  
25 Review case, after the city was affirmed, after

1 the board found in favor of the City of  
2 Philadelphia, at that point, lawfully, if  
3 Mr. Holton wanted to get relief from that  
4 prevailing cease operations, he would have to  
5 get a stay; he would have to do something to  
6 stay the cease pending an appeal or something  
7 else, and they haven't done that. This was  
8 back in November of 2017. He hasn't done that.  
9 All he has done is continue to violate the  
10 cease operations every day that he has been  
11 there.

12 Now in addition to that, Mr. Bernard,  
13 on behalf of Mr. Holton, has come to this court  
14 and he is asking for equitable relief. He is  
15 asking for some kind of injunction for  
16 something on a property which he doesn't own.  
17 But in addition to that, you know, a person is  
18 not even entitled to equitable relief when they  
19 come to the court with unclean hands, when the  
20 very thing that they should have done by order  
21 not just of the court, but of the City of  
22 Philadelphia to cease operations and remove the  
23 stuff.

24 Now we are at a point now where we  
25 are ready, you know, because of Mr. Holton's

1 indifference, to remedy the violation ourselves  
2 on our own property and that is what we are  
3 doing here, that is what Mr. Bernard, that is  
4 the case. This is the case that Mr. Bernard is  
5 now bringing to you, the case that basically,  
6 number one, shouldn't be heard because of the  
7 unclean hands of Mr. Holton, and, number two,  
8 because his proof cannot show this Court that  
9 he has any lawful right to be there.  
10 THE COURT: All right. Thank you.  
11 All right. Mr. Bernard, you can call  
12 your first witness.  
13 MR. BERNARD: Yes, I will, Your  
14 Honor. Thank you.  
15 Mr. Holton, would you take the stand,  
16 please.  
17 THE COURT: He just stays there.  
18 The way this courtroom is designed,  
19 if he is there, I can't see him. So, you will  
20 just have to share the microphone.  
21 DIRECT EXAMINATION  
22 BY MR. BERNARD:  
23 Q. Mr. Holton, I am going to ask you some  
24 questions and just answer them to the best of your  
25 ability one at a time, okay?

1 MR. BERNARD: I am sorry.  
2 BY MR. BERNARD:  
3 Q. Could you describe the property?  
4 A. Meaning?  
5 Q. Where it is. I notice in your complaint, you  
6 use an address on North Delaware Avenue. Could you  
7 describe where the property sits in relation to  
8 those streets that are in the complaint?  
9 A. On Richmond Street, 4085 to 87 Richmond Street.  
10 Q. How big a property is that?  
11 A. It is pretty big.  
12 THE COURT: What is the cross street?  
13 It is Richmond and what?  
14 THE WITNESS: Lewis Street, and it is  
15 at the foot of the Betsy Ross Bridge; it is  
16 kind of in between there.  
17 THE COURT: Okay. Thank you.  
18 BY MR. BERNARD:  
19 Q. Now you have heard, again, Mr. Jefferson tell  
20 the Court that there were violations of the  
21 property. So, I want to direct your attention to  
22 March of last year. Did there come a time in March  
23 of last year when the city came to your property  
24 regarding alleged violations, and, if so, when was  
25 that?

1 You have heard what Mr. Jefferson just  
2 advised Her Honor, Judge Fletman, that you are  
3 essentially trespassing. So I want to direct my  
4 questions to you regarding that issue immediately.  
5 First of all, how long has Final  
6 Destination been in business at that location?  
7 A. About 20 years.  
8 Q. During that period of time, during the 20  
9 years, has there ever been any effort to evict you  
10 and Final Destination as a trespasser, to your  
11 knowledge?  
12 A. Except personally.  
13 THE COURT: Mr. Holton, you have to  
14 use the microphone.  
15 BY MR. BERNARD:  
16 Q. Evict you as a trespasser, not for violating  
17 ordinances. Has there ever been any attempt to  
18 evict you as a trespasser?  
19 A. No.  
20 Q. That is 20 years; right?  
21 Now would you describe the property, and  
22 when I say describe the property, it is hard just  
23 using addresses to get a feel for what --  
24 THE COURT: Mr. Bernard, just ask  
25 questions, please.

1 A. They came for an inspection.  
2 Q. When was that?  
3 A. March of, March 2<sup>nd</sup> of 2017.  
4 Q. Were you there?  
5 A. Yes.  
6 Q. As a result of that inspection, what, if  
7 anything, occurred?  
8 A. They didn't really do too much of an  
9 inspection. The stuff that they requested, I had  
10 given them, and they said this was all that came  
11 from it.  
12 Q. Were there any violations written on  
13 March 2<sup>nd</sup>?  
14 A. Yes, a lot of them.  
15 Q. What, if anything, did you do when you got the  
16 notice of those violations?  
17 A. We corrected the ones that were violations,  
18 which was two --  
19 Q. Two out of how many?  
20 A. There might have been 30, 25, 30. I don't  
21 know.  
22 Q. Twenty-five or 30 what?  
23 A. Different violations.  
24 Q. Which were or were not violations?  
25 A. Well, some of them were fine then, but they

1 still wrote them up, and additional ones were put on  
2 top of them. They were just all written out and  
3 basically not even checked, and the same day my  
4 licenses were canceled when they were at the --  
5 Q. Was there any contention about environmental  
6 pollution at that time?  
7 A. No.  
8 Q. Did you come to court and did you hear  
9 testimony about environmental pollution back in  
10 April?  
11 A. No.  
12 Q. You weren't here, that's correct. I am sorry.  
13 Do you have any evidence that shows that  
14 violations of environmental laws did or did not  
15 exist; do you have any evidence?  
16 A. Yes.  
17 Q. May I see it?  
18 A. I think you have it right there, the paper.  
19 MR. BERNARD: Let the record show I  
20 am handing the witness a letter from the  
21 Pennsylvania Department of Environmental  
22 Protection and a follow-up general inspection  
23 report from the Department of Environmental  
24 Protection; I am going to ask the witness to  
25 identify these. I am going to mark them as P-1

1 and P-2, Your Honor.  
2 THE COURT: Very good.  
3 MR. JEFFERSON: If I may, Your Honor,  
4 may I please see that?  
5 THE COURT: Of course.  
6 Mr. Bernard, do you have copies for  
7 Mr. Jefferson?  
8 MR. BERNARD: Yes. Here we are. I  
9 also have copies for the Court. This is for  
10 Your Honor.  
11 (P-1 and P-2 marked for  
12 identification.)  
13 MR. JEFFERSON: Your Honor, if I may?  
14 THE COURT: Well, are you objecting?  
15 MR. JEFFERSON: I am.  
16 THE COURT: What is the basis of your  
17 objection?  
18 MR. JEFFERSON: So the objection that  
19 I am making right now refers to 3950 Delaware  
20 Avenue. We are not talking about 3950 Delaware  
21 Avenue.  
22 THE WITNESS: Am I allowed to  
23 explain, Your Honor?  
24 THE COURT: Well, no. First of all,  
25 you don't just address the Court. You are a

1 represented party, so your lawyer may do that.  
2 I am overruling the objection at this  
3 point. They haven't been offered into  
4 evidence. I want to hear if there is any  
5 connection.  
6 So, Mr. Bernard, next question.  
7 BY MR. BERNARD:  
8 Q. What is the relationship of 3950 Delaware  
9 Avenue to the property on Richmond Street?  
10 A. It is the back of Richmond Street, but Richmond  
11 Street is the actual physical address which is  
12 pertaining to --  
13 Q. I guess my question is, is 3950 Delaware Avenue  
14 part of the parcel that is described as 4085-87  
15 Richmond Street?  
16 A. Same.  
17 MR. JEFFERSON: I am going to object,  
18 Your Honor. I know you are going to overrule  
19 it, but it is not only a leading question, but  
20 it is, I will say it is a leading question. He  
21 is telling the witness --  
22 THE COURT: I know what a leading  
23 question is, Mr. Jefferson.  
24 MR. JEFFERSON: I am sorry, Your  
25 Honor. Forgive me.

1 THE COURT: That's okay; not a  
2 problem.  
3 Sustained.  
4 MR. BERNARD: Very well.  
5 BY MR. BERNARD:  
6 Q. Now, Mr. Holton, I'd like you to try to  
7 describe any way you can how this property lines up  
8 using these different addresses; can you do that?  
9 A. It is the same property. Richmond Street would  
10 be the frontage of the property, Delaware Avenue  
11 would be the back of the property.  
12 Q. And 4085-87 Richmond Street is property that  
13 you own; is that correct?  
14 A. Yes.  
15 MR. BERNARD: I will try not to lead,  
16 Your Honor.  
17 BY MR. BERNARD:  
18 Q. Now going back to March of last year, were  
19 there any outstanding violations, to your knowledge,  
20 when we went to court in April?  
21 A. No.  
22 Q. If I told you that Her Honor, Judge Fletman,  
23 issued an order which referred to a contention by  
24 the city that you were polluting the Frankford  
25 Creek, would I be correct; do you recall that?



1 MR. JEFFERSON: Objection, Your  
2 Honor. I mean that is clearly leading.  
3 MR. BERNARD: I will withdraw it.  
4 THE COURT: Also, if there is an  
5 order, there is an order.  
6 MR. JEFFERSON: Exactly.  
7 THE COURT: So that is sustained.  
8 What is the number on that other  
9 case, if you have it.  
10 MR. JEFFERSON: I do have it. It is  
11 1704-01646.  
12 THE COURT: Okay. Thank you.  
13 MR. JEFFERSON: Thank you.  
14 BY MR. BERNARD:  
15 Q. As we speak today, are there any outstanding  
16 violations on your property?  
17 A. No.  
18 MR. BERNARD: Your witness.  
19 MR. JEFFERSON: Thank you.  
20 THE COURT: Cross-examine.  
21 MR. JEFFERSON: Thank you, Your  
22 Honor.  
23 CROSS-EXAMINATION  
24 BY MR. JEFFERSON:  
25 Q. Mr. Holton, let's talk about the property that

1 you are referring to as 4085-4087 Richmond Street.  
2 With respect to 4085 Richmond Street, are you  
3 operating any kind of business there?  
4 A. Yes.  
5 Q. What is the name of that business?  
6 A. Final Destination.  
7 Q. Whose business is that?  
8 A. Mine.  
9 Q. On 4085 Richmond Street, you don't have any  
10 violations addressed to Final Destination, do you?  
11 A. I don't have any violations directed on any of  
12 the property.  
13 THE COURT: I am sorry. I couldn't  
14 hear the end of that answer.  
15 THE WITNESS: I don't have any  
16 violations at all.  
17 BY MR. JEFFERSON:  
18 Q. So you don't have any violations issued for  
19 4085 Richmond Street, am I correct?  
20 A. I don't have any violations for any of the  
21 addresses. 4085 is the BRT address. The other two  
22 addresses are made up addresses --  
23 Q. Now --  
24 A. -- that the city told me to use.  
25 Q. Now you said that Final Destination operates at

1 4085 Richmond Street. Where does K Squad operate?  
2 A. He is on the same property as me.  
3 Q. Now is there anything that separates --  
4 A. He was on the same property as me.  
5 Q. And what is operating there now, where K Squad  
6 previously operated?  
7 A. It is the same property; it is me.  
8 Q. So a business is still being conducted on the  
9 same property where K Squad operated?  
10 A. On my property, when it is not closed down  
11 because of this.  
12 Q. So the answer is yes, then, you are operating  
13 on that part of the property that had been operated  
14 by K Squad?  
15 A. I don't understand what you are saying. It is  
16 being operated on my property, as always, until you  
17 come in and cease d me. So it is closed at times and  
18 it is open at times.  
19 Q. Okay. So let me just ask it a different way,  
20 sir.  
21 A. Okay.  
22 Q. There were two operations operating at what you  
23 are calling the property, correct?  
24 A. Yea.  
25 Q. And between those two properties, there is some

1 space; is that fair to say? Between those two  
2 operations -- let me strike that first question.  
3 And between those two --  
4 THE COURT: Mr. Jefferson, you don't  
5 get to strike them. You can ask a new  
6 question.  
7 MR. JEFFERSON: Forgive me. Sorry,  
8 Your Honor.  
9 BY MR. JEFFERSON:  
10 Q. Between the two operating businesses on the  
11 property that you attribute as being yours, is there  
12 any space between those two businesses?  
13 A. No.  
14 Q. Now you said that you don't have any  
15 violations; that was your testimony, is that  
16 correct?  
17 A. Yes.  
18 Q. So, for the purposes of the record, which I  
19 will introduce in our case, I am going to hand  
20 Mr. Holton violation notices, which I will share --  
21 THE COURT: It is cross-examination.  
22 Just show whatever you are going to hand him to  
23 Mr. Bernard and you can hand it to him and ask  
24 your questions.  
25

1 BY MR. JEFFERSON:  
2 Q. Now I have just handed to you a number of pages  
3 of paper, and the face page says Violation Notice;  
4 is that correct?  
5 A. Yes.  
6 Q. And those violations, the subject premises for  
7 which the violations were written, are addressed to  
8 4087 Richmond Street, Frankford Creek Right Of Way,  
9 a/k/a 47 Richmond Street. Do you see that, sir?  
10 A. Yes.  
11 Q. And these violations were issued to that  
12 address on March 2 of 2017, correct?  
13 A. Correct.  
14 Q. These are the same violations, sir, that were  
15 placed before the Board of Licenses & Inspections at  
16 a hearing; is that correct?  
17 A. I am not sure.  
18 Q. Well, you did go to the hearing at the Board of  
19 Licenses & Inspections for a hearing; right?  
20 A. But I have all these licenses that is on here  
21 and presented them to the board.  
22 MR. JEFFERSON: I am objecting as  
23 that being nonresponsive, Your Honor. I would  
24 like to get an answer to the question.  
25 THE COURT: Well, the objection is

1 overruled, but you may re-ask the question.  
2 MR. JEFFERSON: Thank you.  
3 BY MR. JEFFERSON:  
4 Q. Now, look, I am referring your attention to  
5 these violations notices, sir. You testified that  
6 there were no violations.  
7 I am showing you what I am going to refer  
8 to as City Exhibit-1, the violation notice that you  
9 just read. Is this a violation notice that you have  
10 seen before?  
11 A. I have seen a lot of them, so I am not sure.  
12 It is not addressed to me, so I don't know for sure.  
13 I would have to pull them. I got multiple  
14 violations notices that aren't true, just like  
15 probably this one isn't.  
16 Q. Let's just talk about who this is addressed to,  
17 okay?  
18 A. Okay.  
19 Q. It is addressed to Kevin Creedon. Who is Kevin  
20 Creedon?  
21 A. I am not sure. I am guessing he is from K  
22 Squad; that is what it says.  
23 Q. Well, K Squad was operating on a property that  
24 you said you own, right?  
25 A. I own 4085 Richmond Street, correct.

1 Q. And Kevin Creedon operated K Squad; is that  
2 right?  
3 A. There is a Kevin from K Squad, yes.  
4 Q. Well, didn't you actually lease that part of  
5 the property at one time to Kevin Creedon, operating  
6 as K Squad?  
7 A. No. I was letting him use the property on the  
8 opposite side of where I was at; same property,  
9 though.  
10 Q. You didn't have any kind of agreement with him  
11 for his using the property that you said is yours?  
12 A. Did I have an agreement? Yes. I let him use  
13 my property, correct.  
14 Q. And the agreement was with K Squad, Kevin  
15 Creedon; right?  
16 A. I don't know who K Squad is. I know Kevin; I  
17 am not sure if that is his last name.  
18 Q. Who was your agreement with?  
19 A. Kevin.  
20 Q. Kevin who?  
21 A. Kevin. I don't know his last name. I can find  
22 it out, but.  
23 Q. Okay. Kevin.  
24 Now I am going to hand you a second  
25 document, which I am going to refer to as City

1 Exhibit-2. And I just ask you to show your counsel,  
2 please.  
3 Now referring your attention to what I am  
4 going to refer to as City Exhibit-2, are you looking  
5 at it right now?  
6 A. Yes.  
7 Q. To whom are the violations addressed?  
8 A. To me.  
9 Q. Okay. What is the date on that notice, sir?  
10 A. March 2 of '17.  
11 Q. What is the case number right above the date on  
12 this violation notice?  
13 A. 574778.  
14 Q. Now I direct your attention back, if I may, to  
15 City Exhibit-1. Is the case number on that exhibit  
16 the same as the case number on this City-2 exhibit?  
17 A. Yes, but also on here is 3950 Delaware, that  
18 you just said has nothing to do with Richmond  
19 Street. It is addressed to me on Delaware Avenue,  
20 which he just got done saying has nothing to do with  
21 this property. You have it right here. You see  
22 that, right?  
23 Q. Okay. I am not going to argue with you, sir.  
24 THE COURT: Ask another question,  
25 Mr. Jefferson.

1 BY MR. JEFFERSON:  
2 Q. Here is my question; is the case number on City  
3 Exhibit-2 the same as the case number on City  
4 Exhibit-1?  
5 A. Yes, but the addresses ain't.  
6 Q. Okay. Thank you.  
7 Now with respect to the date of the  
8 notice, March 2, 2017, is the date on City Exhibit-2  
9 the same as the date on City Exhibit-1?  
10 A. Yes.  
11 Q. Now looking at City Exhibit-2, now, I would  
12 like you to focus upon this violation notice, I am  
13 calling City Exhibit-2 addressed to you. Are you  
14 familiar with this violation notice? You are  
15 welcome to take a look at it, sir.  
16 A. Yes, but I have a hazmat license in hand. I  
17 have all this stuff that is on here, I have.  
18 Q. Okay. Let's just go through a few of them,  
19 okay?  
20 A. Okay.  
21 Q. Now directing your attention to City Exhibit-2,  
22 which is the same violation, I will represent, as --  
23 THE COURT: Mr. Jefferson, you don't  
24 get to the make representations.  
25

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1 directed as 4085 to 4087 Richmond Street a/k/a the  
2 other addresses, which being Delaware Avenue, and my  
3 licenses reflect that.  
4 Q. Do you have any permit with you now?  
5 A. I have all my licenses and everything with me.  
6 Q. Do you have any license with you today that  
7 refers to the property at 4087 Richmond Street?  
8 A. Yes, city and state licenses.  
9 Q. City licenses?  
10 A. Yes.  
11 Q. Show me your license for 4087.  
12 A. Can I get my briefcase?  
13 THE COURT: Yes, you may.  
14 THE WITNESS: Thank you.  
15 THE COURT: Are we ready to go?  
16 MR. BERNARD: Yes, Your Honor.  
17 MR. JEFFERSON: May I continue, Your  
18 Honor?  
19 THE COURT: Yes, please.  
20 BY MR. JEFFERSON:  
21 Q. Mr. Holton, can you please show me, please show  
22 me any license that has been issued to you by the  
23 City of Philadelphia for 3087 Richmond Street?  
24 A. I don't own 3087 Richmond Street.  
25 THE COURT: I am sorry. I couldn't

1 BY MR. JEFFERSON:  
2 Q. Directing your attention to City Exhibit-2, one  
3 of the violations listed here, sir, on the second  
4 page, is to you must obtain zoning for all uses on  
5 the property; scrap metal, dismantling, wrecking,  
6 abused motor vehicles, to include storage and sale  
7 of dismantled, partially dismantled, storage and  
8 sale, inoperative, wrecked vehicles and their parts;  
9 do you see that?  
10 A. Yes.  
11 Q. Now with respect to the property that you said  
12 that you owned at 4087 Richmond Street, can you show  
13 me your zoning permit?  
14 A. It is 4085 Richmond Street and, yes, I can.  
15 Q. Okay. Show me your zoning permit, please, for  
16 4087 Richmond Street.  
17 A. This property is all lease restricted. There  
18 is no zoning required, only licensing for the  
19 property. And I have every license that they  
20 required me to get over the years from day one and  
21 the addresses have always been the issue from the  
22 time I purchased this property. Just like 3950  
23 North Delaware Avenue is the back of it, 4087 was an  
24 address that the City of Philadelphia told me to use  
25 along with 4085 Richmond Street. So, it was always

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1 hear.  
2 THE WITNESS: I don't own 3087  
3 Richmond Street.  
4 BY MR. JEFFERSON:  
5 Q. 4087 Richmond Street; excuse me.  
6 A. I am showing you the licenses here, 4085  
7 Richmond Street a/k/a North Delaware Avenue, and  
8 same here, 4085 Richmond Street, which is -- I mean  
9 4085-87 was the address that the City of  
10 Philadelphia, just like it is written on here, told  
11 me to use, and even when they do the inspections,  
12 the real inspections from L&I, they say 4085/87  
13 Richmond Street.  
14 Q. So, just to answer my question --  
15 A. And I also have state license, I could have it  
16 faxed down, Your Honor; it says 4085/87 Richmond  
17 Street, also. I don't have it with me, but I can  
18 have it faxed over or have them take a picture and  
19 send it to my phone.  
20 Q. Just to answer my question, sir, do you have  
21 any license issued by the City of Philadelphia to  
22 you for use of the property known as 4087 Richmond  
23 Street?  
24 A. They all say 4085 and then they say a/k/a 4087  
25 and also 3950 because when the tax system was



1 changed quite a few years back with the computer,  
 2 these addresses were made up off of the property.  
 3 So they come to the BRT address and then they just  
 4 a/k/a the made-up addresses, which was from years  
 5 ago, I am guessing, because Delaware Avenue is the  
 6 back of the property, but it was addressed as  
 7 Delaware Avenue.  
 8 THE COURT: Mr. Holton, do you have a  
 9 deed to this property?  
 10 MR. JEFFERSON: That was my next  
 11 question.  
 12 THE WITNESS: I have paperwork from  
 13 2012 --  
 14 THE COURT: Just answer my question.  
 15 THE WITNESS: Yes.  
 16 THE COURT: Do you have a deed?  
 17 THE WITNESS: Yes, Your Honor.  
 18 THE COURT: Do you have it here with  
 19 you?  
 20 THE WITNESS: I have -- no, I don't  
 21 have the deed here with me.  
 22 THE COURT: Then that is the answer  
 23 to my question.  
 24 THE WITNESS: Okay.  
 25 THE COURT: All right. Next

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1 A. Yes.  
 2 Q. How long have you been operating on the  
 3 property while the cease operations is in effect?  
 4 A. I have been on my property for over 20 years .  
 5 Q. So, you never stopped operating; is that what  
 6 you are saying, sir?  
 7 A. Yes, I stopped when I was ceased.  
 8 Q. For how long a period of time are you  
 9 representing to the Court that you had stopped  
 10 operating on 4087 Richmond Street?  
 11 A. On and off for months at a time.  
 12 Q. What authorized you to start, resume operations  
 13 at any time after the cease operations was issued?  
 14 MR. BERNARD: Your Honor, I am going  
 15 to object to the form of the question.  
 16 THE COURT: Overruled.  
 17 You may answer the question.  
 18 THE WITNESS: Can you repeat the  
 19 question?  
 20 BY MR. JEFFERSON:  
 21 Q. Yes. What authorized you to operate on the  
 22 property at any time, the property being 4087  
 23 Richmond Street, while this cease operations was in  
 24 effect?  
 25 A. Because it was supposed to be taken care of,

1 question.  
 2 MR. JEFFERSON: That was my question,  
 3 but thank you, Your Honor. That was the  
 4 question I was going to ask next.  
 5 BY MR. JEFFERSON:  
 6 Q. Now here is my next question and perhaps my  
 7 last question. I am going to show you two  
 8 photographs. I am going to ask that you show them  
 9 to your attorney first.  
 10 Now I am directing your attention to two  
 11 photographs. Do you recognize what is depicted,  
 12 what is shown in those two photographs?  
 13 A. Yes. It says Intent to Cease, L&I.  
 14 Q. Now the Department of Licenses and Inspections  
 15 ceased operations at 4087 Richmond Street, correct?  
 16 A. Yes.  
 17 Q. And you continued to operate on that property  
 18 even though that cease operations was outstanding;  
 19 is that correct?  
 20 A. Now or when this was -- when this was put up,  
 21 no.  
 22 Q. Has the cease operations ever been lifted from  
 23 that property?  
 24 A. I am not sure.  
 25 Q. Are you operating on the property now?

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1 from what I understood.  
 2 Q. Do you have anything in your possession to bear  
 3 out, to show why you would have that understanding?  
 4 A. No, I don't.  
 5 MR. JEFFERSON: Thank you, sir.  
 6 I have no further questions, Your  
 7 Honor.  
 8 THE COURT: All right. Thank you.  
 9 Any redirect?  
 10 MR. BERNARD: Yes, briefly, Your  
 11 Honor.  
 12 THE COURT: Sure.  
 13 REDIRECT EXAMINATION  
 14 BY MR. BERNARD:  
 15 Q. This urgent notice that is attached to the  
 16 complaint dated February 1<sup>st</sup>, 2018, you have read  
 17 this, have you not? You have read this?  
 18 A. Yes.  
 19 Q. And you are here in court today, and I want to  
 20 ask you whether or not you intend to cease  
 21 operations?  
 22 MR. JEFFERSON: Objection, Your  
 23 Honor. It is beyond the scope. I didn't ask  
 24 anything about what his intention is down for  
 25 the future.

1 THE COURT: Overruled.  
 2 BY MR. BERNARD:  
 3 Q. Have you ceased operations?  
 4 MR. JEFFERSON: Objection. He  
 5 already was asked and answered that question.  
 6 THE COURT: Overruled.  
 7 BY MR. BERNARD:  
 8 Q. You can answer it.  
 9 THE COURT: Mr. Bernard, the Court  
 10 will direct the witness whether he can answer  
 11 or not.  
 12 MR. BERNARD: I apologize. Thank  
 13 you.  
 14 THE COURT: Please answer the  
 15 question.  
 16 THE WITNESS: Can you repeat the  
 17 question?  
 18 THE COURT: Have you ceased  
 19 operations, as we sit here now today?  
 20 THE WITNESS: Right now, no.  
 21 THE COURT: Okay. Next question.  
 22 BY MR. BERNARD:  
 23 Q. Are there any existing violations of  
 24 ordinances, statutes or anything else at the present  
 25 time?

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1 MR. JEFFERSON: I do.  
 2 THE COURT: Okay. You may call your  
 3 first witness.  
 4 MR. JEFFERSON: The first witness  
 5 would be Darin Gatti.  
 6 THE COURT: State your name and spell  
 7 it for the record.  
 8 THE WITNESS: Darin Gatti, D-A-R-I-N  
 9 G-A-T-T-I.  
 10 (Witness sworn.)  
 11 THE COURT: Okay. Thank you.  
 12 You may proceed.  
 13 MR. JEFFERSON: Thank you, Your  
 14 Honor.  
 15 DIRECT EXAMINATION  
 16 BY MR. JEFFERSON:  
 17 Q. Mr. Gatti, would you please say your name and  
 18 spell your name. I don't know if you have done that  
 19 already.  
 20 A. Darin Gatti, D-A-R-I-N G-A-T-T-I.  
 21 Q. Mr. Gatti, what position do you hold with the  
 22 City of Philadelphia?  
 23 A. I am the chief engineer and president of the  
 24 board of surveyors for the Philadelphia Streets  
 25 Department.

1 A. No.  
 2 MR. BERNARD: That's all I have, Your  
 3 Honor.  
 4 THE COURT: Do you have recross based  
 5 on that?  
 6 MR. JEFFERSON: No, Your Honor.  
 7 THE COURT: Do you have any other  
 8 witnesses?  
 9 MR. BERNARD: I do not have any other  
 10 witnesses.  
 11 I would just move --  
 12 THE COURT: Do you want to move your  
 13 exhibits into evidence?  
 14 MR. BERNARD: Yes, I do.  
 15 THE COURT: It was just P-1 and P-2;  
 16 correct?  
 17 MR. BERNARD: Correct.  
 18 THE COURT: Any objection?  
 19 MR. JEFFERSON: No.  
 20 THE COURT: P-1 and P-2 are admitted  
 21 into evidence.  
 22 Are you resting?  
 23 MR. BERNARD: Yes.  
 24 THE COURT: Mr. Jefferson, do you  
 25 have any witnesses?

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1 Q. How long have you been involved with surveys  
 2 and engineering for the City of Philadelphia?  
 3 A. Thirty-six years.  
 4 Q. Are you familiar with the property that I am  
 5 going to refer to as 4087 Richmond Street?  
 6 A. Yes.  
 7 Q. Does Mr. Holton own 4087 Richmond Street ?  
 8 A. No; that is city property.  
 9 Q. Now let's talk about that.  
 10 When you say it is city property, at what  
 11 point in time did the City of Philadelphia take that  
 12 property?  
 13 A. About 1951, the city condemned that for the  
 14 relocation of the Frankford Creek. That property is  
 15 part of the Frankford Creek right of way.  
 16 Q. When we are talking about that property, just  
 17 for the purposes of clarity, 4087 Richmond Street,  
 18 is there a business being operated there?  
 19 A. Yes.  
 20 Q. Now is that business separate and apart from  
 21 any other business that is operating in that area  
 22 along Richmond Street?  
 23 A. It appears to be, yes.  
 24 Q. Now are you familiar with 4085 Richmond Street?  
 25 A. Yes, I am.

1 Q. And who owns 4085 Richmond Street?  
 2 A. Robert Holton.  
 3 Q. Is there a business that Mr. Holton operates at  
 4 4085 Richmond Street?  
 5 A. Yes.  
 6 Q. Is that business and that property separate and  
 7 apart from the right of way that we are referring to  
 8 as 4087 Richmond Street?  
 9 A. Yes.  
 10 Q. Now your testimony was that back in 1951, the  
 11 City of Philadelphia took the property. In what way  
 12 was that property taken?  
 13 A. It was a condemnation. This was all part of  
 14 the construction of the Betsy Ross Bridge, which  
 15 included a relocation of the Frankford Creek. So  
 16 the city had condemned property from Aramingo Avenue  
 17 down to the Delaware River for the location of the  
 18 Frankford Creek, where it exists now; that is  
 19 actually a man-made creek.  
 20 Q. Now with respect to the action that you are  
 21 speaking about, was the action authorized by the  
 22 City of Philadelphia City Council?  
 23 MR. BERNARD: I will object to that,  
 24 Your Honor. He is not here to testify about  
 25 what the City Council did or did not do.

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1 come back to C-1 and C-2.  
 2 THE COURT: You may mark it as City  
 3 Exhibit-3.  
 4 MR. JEFFERSON: I will, Your Honor.  
 5 Thank you.  
 6 (C-3 marked for identification.)  
 7 BY MR. JEFFERSON:  
 8 Q. Now I am handing you a copy of the ordinance  
 9 that now I am referring to as City Exhibit-3. Take  
 10 a look at it.  
 11 Okay. Having looked at C-3, is that the  
 12 ordinance in which these adjustments that you spoke  
 13 about that cause 4087 to be city property, is that  
 14 part of this ordinance?  
 15 A. Yes.  
 16 Q. Okay. Now relative to the ordinance itself,  
 17 were there a number of plans that actually  
 18 designated those portions of the property that had  
 19 become the re-constituted Frankford Creek right of  
 20 way?  
 21 A. Yes. The condemnations are recorded in the  
 22 jury plans for the relocation of the Frankford  
 23 Creek.  
 24 Q. Now I am going to show counsel what I am going  
 25 to mark as City Exhibit-4.

1 THE COURT: Sustained.  
 2 BY MR. JEFFERSON:  
 3 Q. You said that the property at 4087 belonged to  
 4 the city; right?  
 5 A. Yes.  
 6 Q. You are saying that the property at 4087 became  
 7 the city's as a result of condemnation?  
 8 A. Yes.  
 9 Q. Was the condemnation done by an ordinance that  
 10 you are familiar with?  
 11 A. Yes. My survey districts would process the  
 12 ordinance through City Council.  
 13 Q. That having been said, I am going to hand you a  
 14 copy of the ordinance and I am going to provide a  
 15 copy to counsel.  
 16 THE COURT: Well, provide a copy  
 17 first and then to the witness.  
 18 MR. JEFFERSON: Thank you, Your  
 19 Honor.  
 20 Your Honor, even though I have  
 21 referred to, on cross-examination, C-1 and C-2,  
 22 I am going to ask that this be marked as City  
 23 Exhibit C-3.  
 24 THE COURT: That is fine.  
 25 MR. JEFFERSON: And I am going to

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1 (City Exhibit-4 marked for  
 2 identification.)  
 3 BY MR. JEFFERSON:  
 4 Q. Now handing you a copy of City Exhibit-4, can  
 5 you tell me what that is?  
 6 A. This is a copy of the jury plan for the  
 7 acquisition of property at Frankford Creek.  
 8 Q. Is the property that we are referring to as  
 9 4087 Richmond Street part of that jury plan?  
 10 A. Yes, it is.  
 11 Q. The jury plan which is part of the ordinance?  
 12 A. Yes, sir.  
 13 Q. Thank you.  
 14 Now in addition to the actual jury plan  
 15 itself, there were further breakdowns with respect  
 16 to the graphic of what it would look like in terms  
 17 of the properties that existed there and how the  
 18 Frankford Creek would run through them; is that  
 19 correct?  
 20 MR. BERNARD: Objection, Your Honor.  
 21 It is leading. He is testifying.  
 22 THE COURT: Sustained.  
 23 MR. JEFFERSON: I am going to mark  
 24 this as City Exhibit-5.  
 25 THE COURT: I missed four. What was

1 four?  
 2 MR. JEFFERSON: The jury plan.  
 3 THE COURT: I see. Thank you.  
 4 MR. JEFFERSON: City Exhibit-5.  
 5 (City Exhibit-5 marked for  
 6 identification.)  
 7 BY MR. JEFFERSON:  
 8 Q. Is there a plan that shows 4087 relative to the  
 9 surrounding properties?  
 10 A. Yes.  
 11 Q. Okay. I am directing your attention to what I  
 12 am referring to as City Exhibit-5. Could you please  
 13 take a look at that.  
 14 A. Okay.  
 15 Q. Is this a graphic, like a plan that shows where  
 16 the Frankford Creek runs, and superimposed on that,  
 17 does it also illustrate where 4085 is and the part  
 18 of the property that we are referring to as 4087?  
 19 A. Yes. This is a copy of the city plan, which  
 20 actually has the Frankford Creek right of way  
 21 documented on the city plan, and we have highlighted  
 22 the areas that are being referred to as 4085 and  
 23 4087 Richmond Street.  
 24 MR. JEFFERSON: Now, Your Honor, if I  
 25 may, without objection from counsel, it may be

1 very easy for you to get exactly how this all  
 2 looks. I intend to move this into evidence.  
 3 THE COURT: Do you have any objection  
 4 to the Court seeing it?  
 5 MR. BERNARD: I haven't seen it yet.  
 6 THE COURT: Well, show it to  
 7 Mr. Bernard.  
 8 MR. JEFFERSON: I handed it to him,  
 9 Your Honor.  
 10 MR. BERNARD: Okay. I have no  
 11 objection.  
 12 THE COURT: Then you may hand me a  
 13 copy.  
 14 MR. JEFFERSON: Thank you.  
 15 BY MR. JEFFERSON:  
 16 Q. Now with respect to the property at 4085, which  
 17 Mr. Holton believes actually runs onto 4087, are you  
 18 familiar with the deed --  
 19 MR. BERNARD: Again, Your Honor, he  
 20 is testifying.  
 21 THE COURT: Overruled. He is asking  
 22 a question.  
 23 Go ahead.  
 24 MR. JEFFERSON: Thank you.  
 25

1 BY MR. JEFFERSON:  
 2 Q. Are you familiar with the deed --  
 3 THE COURT: Although, Mr. Jefferson,  
 4 it is not a good practice to thank either the  
 5 court or the witness for when rulings are made  
 6 or questions are answered.  
 7 MR. JEFFERSON: Thank you -- see? My  
 8 whole life I have been thanking people for, you  
 9 know -- I wasn't sure, and that is fault of  
 10 mine, so.  
 11 THE COURT: Go ahead. Next question,  
 12 please.  
 13 BY MR. JEFFERSON:  
 14 Q. Are you familiar with the deed for 4085  
 15 Richmond Street?  
 16 A. Yes, I am.  
 17 Q. Now I am going to hand you and at the same time  
 18 hand to counsel what I am going to refer to as City  
 19 Exhibit-6.  
 20 (City Exhibit-6 marked for  
 21 identification.)  
 22 BY MR. JEFFERSON:  
 23 Q. So please take a look at City Exhibit-6. What  
 24 is City Exhibit-6?  
 25 A. Exhibit-6 is the deed to 4085 Richmond Street.

1 Q. And who is the owner of 4085 Richmond Street ?  
 2 A. Robert Holton.  
 3 Q. With respect to the actual deed itself, are you  
 4 familiar with the description in the deed?  
 5 A. Yes, I am.  
 6 Q. How did that familiarity come about?  
 7 A. Through the years, my survey districts have  
 8 drawn up the property lines for this property  
 9 several times for different reasons.  
 10 Q. As a matter of fact, if this particular deed  
 11 has some additions that were added onto this, is  
 12 that correct?  
 13 A. There is a --  
 14 MR. BERNARD: Your Honor, if the  
 15 Court -- never mind. I will withdraw the  
 16 objection.  
 17 THE COURT: Okay. Next question.  
 18 BY MR. JEFFERSON:  
 19 Q. What is contained in this deed is the land that  
 20 Mr. Holton owns; is that correct?  
 21 A. Yes, it is.  
 22 Q. And does it clearly exclude in that deed the  
 23 property that we are referring to as 4087?  
 24 MR. BERNARD: Objection, Your Honor.  
 25 It calls for a conclusion.

1 THE COURT: Overruled.  
 2 BY MR. JEFFERSON:  
 3 Q. Does it specifically exclude in the property  
 4 that we are referring to as 4087 Richmond Street ?  
 5 A. Yes. The back of this property actually ends  
 6 over a thousand feet away from Richmond Street. It  
 7 fronts on Delaware Avenue. The entrance to 4085 is  
 8 on Delaware Avenue and the back of the property ends  
 9 about a little over a thousand feet from Richmond  
 10 Street. 4087 Richmond Street enters from Richmond  
 11 Street itself.  
 12 Q. Do you know of any document at all that exists  
 13 that would authorize anyone to operate on city  
 14 property?  
 15 A. No. That is the Frankford Creek right of way.  
 16 Q. Now with respect to the operations that have  
 17 been conducted at what I am referring to as 4087  
 18 Richmond Street, the city's right of way, were you  
 19 previously in court to testify about the operations  
 20 there?  
 21 A. Yes, I have.  
 22 Q. With respect to the operations, did you offer  
 23 testimony to the court that there was a potential  
 24 for contamination, hazards to be caused to the water  
 25 by virtue of the fluids and all the things leaching

1 from the cars like runoff from rain?  
 2 A. Yes. In my previous testimony, I did testify  
 3 that the operation of an auto salvage operation has  
 4 potential for contaminating the creek. The area  
 5 outside the physical boundaries of the creek itself,  
 6 all right, the right of way is over 200 feet wide.  
 7 The creek itself is not 200 feet wide. So, there is  
 8 open land on either side of the creek; that is  
 9 considered the drainage area, and any operation in  
 10 there, anything that falls in that area will, may  
 11 wind up in be the creek. That is also an area that  
 12 frequently floods because as the, you know, the  
 13 spring rains come, the creek rises above its banks  
 14 and that area is a floodway. It is also used as a  
 15 filter. The vegetation in that area helps to filter  
 16 the surface water as it drains into the creek.  
 17 Q. So --  
 18 THE COURT: Just bear with me for a  
 19 moment.  
 20 I am sorry, Mr. Gatti. I am still  
 21 stuck on this, what is 4085 and what is 4087.  
 22 Did I hear you correctly that you  
 23 testified that 4085 Richmond Street does not  
 24 front on Richmond Street?  
 25 THE WITNESS: That is correct.

1 THE COURT: Well, can you explain --  
 2 why would you have --  
 3 THE WITNESS: I don't know how that  
 4 happened.  
 5 THE COURT: Why would you have an  
 6 address that is Richmond Street that is not on  
 7 Richmond Street?  
 8 THE WITNESS: We do not assign that  
 9 address. I don't know how it happened.  
 10 THE COURT: All right. Thank you.  
 11 You may ask -- I mean, I am looking  
 12 at this map and it doesn't make any sense, so  
 13 that is why --  
 14 MR. JEFFERSON: That is why I gave it  
 15 to you, Your Honor, so you can see actually  
 16 what is involved here.  
 17 THE COURT: All right. Go ahead.  
 18 Next question.  
 19 MR. JEFFERSON: Not only does  
 20 Mr. Holton not have the lawful right --  
 21 THE COURT: Next question.  
 22 MR. JEFFERSON: Okay.  
 23 THE COURT: Not argument; question.  
 24 BY MR. JEFFERSON:  
 25 Q. So the operations on 4087, whatever they would

1 be, would be unlawful?  
 2 MR. BERNARD: Again, Your Honor, that  
 3 is testimony.  
 4 THE COURT: Well, it is testimony,  
 5 but it is also a legal conclusion, and that  
 6 objection is sustained.  
 7 MR. JEFFERSON: Then I have nothing  
 8 further.  
 9 THE COURT: Okay. Cross-examine.  
 10 MR. BERNARD: Thank you.  
 11 MR. JEFFERSON: Wait. I am sorry.  
 12 With the Court's permission, may I reopen my  
 13 direct for just two more questions?  
 14 THE COURT: Go ahead.  
 15 MR. JEFFERSON: Thank you.  
 16 BY MR. JEFFERSON:  
 17 Q. Have you been to the property recently?  
 18 A. It has been several months since I have been to  
 19 the property.  
 20 Q. Okay. And was the property operating at the  
 21 time you were there?  
 22 A. Yes, it was.  
 23 MR. JEFFERSON: Thank you.  
 24 That's all I have, Your Honor.  
 25 THE COURT: All right.



1 Cross-examine.  
 2 CROSS-EXAMINATION  
 3 BY MR. BERNARD:  
 4 Q. You testified that there is a potential for  
 5 runoff from the salvage business to the Frankford  
 6 Creek; is that correct?  
 7 A. Yes.  
 8 Q. Did you testify in a prior hearing involving  
 9 the same parties that there was actual kind of  
 10 pollution?  
 11 A. No, I did not.  
 12 Q. The property that is described in these, in the  
 13 deed from Mr. Buonasera --  
 14 A. Bonchristiano.  
 15 Q. Bonchristiano to Mr. Holton, is the legal  
 16 description in this deed for 4085 Richmond Street  
 17 correct?  
 18 A. Yes.  
 19 Q. So that Mr. Holton is the owner of 4085  
 20 Richmond Street, according to the deed; is that  
 21 correct?  
 22 A. Yes.  
 23 Q. Now are you aware of the zoning of that  
 24 property?  
 25 A. For 4085 Richmond Street?

1 Q. Yes, sir.  
 2 A. I don't have that in front of me.  
 3 Q. Well, my question is, are you aware of it? Are  
 4 you aware what the zoning is?  
 5 A. I would have that in my files. I don't know  
 6 off the top of my head.  
 7 Q. I would represent to you that Mr. Holton  
 8 testified that it was the least restrictive zoning.  
 9 Do you know what that means?  
 10 A. Yes, I do.  
 11 Q. What does it mean?  
 12 A. It is one of the zoning classifications for  
 13 properties. There is a series of them and the least  
 14 restrictive is an industrial, you know, mainly used  
 15 in industrial zones.  
 16 Q. Would it be fair to say that Mr. Holton's  
 17 operation of his business is consistent with the  
 18 least restrictive type of zoning?  
 19 MR. JEFFERSON: Objection.  
 20 THE COURT: What is the basis of your  
 21 objection?  
 22 MR. JEFFERSON: Because it is on  
 23 which property?  
 24 THE COURT: All right. Sustained.  
 25 You can rephrase the question,

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1 Mr. Bernard.  
 2 MR. BERNARD: Thank you.  
 3 BY MR. BERNARD:  
 4 Q. Would it be fair to say that 4085 Richmond  
 5 Street is operated consistent with the least  
 6 restrictive zoning classification?  
 7 A. Within the boundaries of the deed for 4085  
 8 Richmond Street, yes.  
 9 Q. Now are you aware of any other violations of  
 10 any ordinances by the businesses being conducted by  
 11 Mr. Holton?  
 12 MR. JEFFERSON: Objection. Which  
 13 business, Your Honor? Which business?  
 14 MR. BERNARD: Mr. Holton's business.  
 15 THE COURT: Overruled.  
 16 You may answer the question.  
 17 THE WITNESS: The operations that  
 18 enter on 40 or on Richmond Street are operating  
 19 on city property.  
 20 BY MR. BERNARD:  
 21 Q. I know. You testified to that.  
 22 A. Yes.  
 23 Q. But apart from that, apart from the issue of  
 24 title, are there any violations of any zoning  
 25 ordinances of which you are aware by Mr. Holton?

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1 A. I am not L&I. I am not aware. I may not be  
 2 aware of all of them.  
 3 Q. When did you last visit the property?  
 4 A. I was up there several months ago. I don't  
 5 remember the exact date.  
 6 Q. Were you there with any representatives from  
 7 the Department of Licenses & Inspections?  
 8 A. I have been in the past. My most recent visit  
 9 was not.  
 10 Q. Very well.  
 11 To the best of your knowledge, is  
 12 Mr. Holton engaged in a business that violates any  
 13 laws of the City of Philadelphia?  
 14 A. The business that is operating on Richmond  
 15 Street, what they call 4087 Richmond Street, is  
 16 operating on city property; that is illegal.  
 17 Q. Now what was the reason for your going to the  
 18 3950 North Delaware Avenue location?  
 19 A. I am not familiar with that address.  
 20 Q. What was the reason for your visiting the  
 21 property with L&I inspectors?  
 22 A. The last time I visited with L&I inspectors was  
 23 for an inspection.  
 24 Q. Very well.  
 25 Are you aware of any violations of any

1 other ordinances as a result of that inspection?  
 2 A. My purpose there was not for violations. My  
 3 purpose was for locating property boundary lines .  
 4 Q. What, if anything, has the city done to redress  
 5 what you perceive to be a violation of the city's  
 6 property rights by Mr. Holton?  
 7 A. Well, cease operations.  
 8 MR. JEFFERSON: Objection. It is all  
 9 on the record.  
 10 THE COURT: Overruled.  
 11 You can answer the question.  
 12 THE WITNESS: L&I issues a cease  
 13 operations order.  
 14 BY MR. BERNARD:  
 15 Q. Do the cease operations orders bear upon title  
 16 or do they bear upon operation of the business of  
 17 Mr. Holton?  
 18 A. I did not write the cease operations.  
 19 Q. I know you didn't write it, but have you read  
 20 it?  
 21 A. Yes.  
 22 Q. It states: A challenge seeking a stay -- I am  
 23 reading what it says -- a challenge seeking a stay,  
 24 this cease operations was made to the Philadelphia  
 25 Court of Common Pleas, which was denied with an

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1 refers to, and I quote, "a condition of immediate  
 2 danger or hazard to health, safety or welfare, which  
 3 requires immediate compliance."  
 4 What immediate danger exists to health,  
 5 safety and welfare?  
 6 MR. JEFFERSON: Objection, and I will  
 7 tell you why, Your Honor.  
 8 THE COURT: Yes. Go ahead.  
 9 MR. JEFFERSON: This is from the  
 10 Department of Licenses & Inspections.  
 11 THE COURT: Okay. Sustained.  
 12 BY MR. BERNARD:  
 13 Q. So, you are not aware of any such violations;  
 14 is that correct, Mr. Gatti?  
 15 A. I am aware of what L&I has posted and that  
 16 there is a cease operations order and my previous  
 17 testimony of the potential for contamination of the  
 18 Frankford Creek as well as the legal boundaries of  
 19 Mr. Holton's deed which does not include the  
 20 operations that are working in the area that is  
 21 being referred to as 4087 Richmond Street.  
 22 Q. But your testimony that resulted in this  
 23 finding that I quote has nothing to do with  
 24 potential or does it have to do with potential?  
 25 MR. JEFFERSON: Well, objection, Your

1 order which set forth a no stay shall be granted  
 2 where there exists "condition of immediate danger or  
 3 hazard to health, safety or welfare" --  
 4 THE COURT: Mr. Bernard, what is it  
 5 you are reading?  
 6 MR. BERNARD: I am reading from the  
 7 urgent notice that is attached to the  
 8 complaint, the reason that Mr. Holton is here.  
 9 THE COURT: Well --  
 10 MR. BERNARD: I can rephrase it.  
 11 THE COURT: Well, no. First of all,  
 12 I am looking at that document and I don't see  
 13 what you are reading, so I don't know where you  
 14 are in that document. And, secondly, I am not  
 15 sure why you are reading a document into the  
 16 record.  
 17 MR. BERNARD: Well, I am asking --  
 18 THE COURT: It just seems like a  
 19 waste of time. What paragraph of this notice  
 20 are you --  
 21 MR. BERNARD: I will rephrase it,  
 22 Your Honor.  
 23 BY MR. BERNARD:  
 24 Q. The urgent notice that is attached to the  
 25 complaint that brings my client to court here today

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1 Honor. It is irrelevant. What is the point?  
 2 THE COURT: I don't even know.  
 3 Sustained.  
 4 MR. BERNARD: Your Honor, what I am  
 5 trying to pursue --  
 6 THE COURT: I mean, to be honest with  
 7 you, I didn't understand the question, which is  
 8 why I sustained the objection. So, if you want  
 9 to try a different question, I am happy to  
 10 listen.  
 11 BY MR. BERNARD:  
 12 Q. Do you know of anything that activates this  
 13 potential?  
 14 A. The operation itself. I mean, there is an  
 15 operation there involving scrap cars, of taking cars  
 16 apart and having, you know, junk cars in the  
 17 drainage right away of the Frankford Creek. Any  
 18 flooding would wash any fluids from those vehicles;  
 19 grease, acids, transmission fluid, oils, into  
 20 Frankford Creek. Frankford Creek feeds the Delaware  
 21 River, which is the source of drinking water for the  
 22 City of Philadelphia.  
 23 Q. That was your testimony previously, but, again,  
 24 you are not aware that that occurred; you are aware  
 25 that there is a potential for it to occur?

1 MR. JEFFERSON: Objection, Your  
 2 Honor.  
 3 THE COURT: Overruled.  
 4 THE WITNESS: Yes. I testified there  
 5 is a potential there, there is a danger.  
 6 MR. BERNARD: That is all I have,  
 7 Your Honor.  
 8 THE COURT: Any redirect?  
 9 MR. JEFFERSON: No, Your Honor.  
 10 THE COURT: Fine.  
 11 Any other witnesses?  
 12 MR. JEFFERSON: Yes, Your Honor, very  
 13 briefly.  
 14 THE COURT: Call your next witness,  
 15 please.  
 16 MR. JEFFERSON: Martin Raudenbush.  
 17 THE COURT CRIER: Please state your  
 18 name for the record.  
 19 THE WITNESS: Martin Raudenbush.  
 20 THE COURT CRIER: Please spell that.  
 21 THE WITNESS: M-A-R-T-I-N  
 22 R-A-U-D-E-N-B-U-S-H.  
 23 (Witness sworn.)  
 24 MR. JEFFERSON: May I, Your Honor?  
 25 THE COURT: Yes, please. Go ahead.

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1 Honor. He is leading the witness.  
 2 THE COURT: It is foundational.  
 3 Overruled.  
 4 BY MR. JEFFERSON:  
 5 Q. I am going to refer your attention to what I  
 6 have already shown to counsel and previously  
 7 referred to as C-1 and C-2, and ask you to take a  
 8 look at them.  
 9 Are these violations directed by the  
 10 Department of Licenses & Inspections?  
 11 A. Yes.  
 12 Q. Are these violations directed to the property  
 13 at 4087 Richmond Street?  
 14 A. Yes.  
 15 Q. Are these violations, violations which are  
 16 still open according to the records of the  
 17 Department of Licenses and Inspections?  
 18 A. Yes.  
 19 Q. Now with respect to those violations, were  
 20 those violations the reason why the cease operations  
 21 was issued by the Department of Licenses and  
 22 Inspections?  
 23 A. Yes.  
 24 MR. BERNARD: Can I see the violation  
 25 notices? I don't have them.

1 Thank you.  
 2 DIRECT EXAMINATION  
 3 BY MR. JEFFERSON:  
 4 Q. Inspector, how long have you been an inspector  
 5 for the City of Philadelphia?  
 6 A. I have been in Licenses & Inspections since  
 7 1997.  
 8 Q. Relative to your duties as an inspector for the  
 9 City of Philadelphia, do you routinely write  
 10 violation notices for --  
 11 THE COURT: Mr. Jefferson, you are  
 12 not speaking into the mike. It is hard to  
 13 hear.  
 14 MR. JEFFERSON: I am sorry.  
 15 BY MR. JEFFERSON:  
 16 Q. Relative to your position as an inspector for  
 17 the City of Philadelphia Department of Licenses and  
 18 Inspections, do you routinely write violations when  
 19 you observe violations upon properties?  
 20 A. Yes.  
 21 Q. And relative to the property that we are  
 22 talking about here, which is 4087 Richmond Street,  
 23 are you aware that violations have been issued by  
 24 the Department of Licenses and Inspections?  
 25 MR. BERNARD: I will object, Your

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1 THE COURT: Did you give Mr. Bernard  
 2 a copy of them?  
 3 MR. JEFFERSON: I showed him the  
 4 violations. I don't have an additional copy.  
 5 His client has the original.  
 6 THE COURT: Mr. Jefferson, that is  
 7 not really an excuse for not bringing copies of  
 8 an exhibit with you, but.  
 9 MR. JEFFERSON: Maybe I do have a  
 10 copy, Your Honor.  
 11 THE COURT: Okay.  
 12 MR. JEFFERSON: In fact, I do.  
 13 THE COURT: Excellent. So, now you  
 14 have given Mr. Bernard a copy.  
 15 MR. JEFFERSON: Yes, I have.  
 16 THE COURT: You may continue.  
 17 MR. JEFFERSON: Thank you.  
 18 BY MR. JEFFERSON:  
 19 Q. With respect to the violations that have been  
 20 issued for 4087 Richmond Street, to whom are the  
 21 violations addressed?  
 22 A. On the first one I have here, it was Kevin  
 23 Creedon, K Squad, and the second notice was for  
 24 Robert Holton.  
 25 Q. When those violations are addressed in that

1 manner, are those violations actually delivered to  
2 the people whose name appear on there or at the  
3 addresses as they appear on there?

4 A. They are mailed to the address that is listed  
5 on the violation notice.

6 Q. Now in this particular case, not only were the  
7 violations sent there, was there an underlying --  
8 was there a resulting cease operations?

9 A. Yes.

10 MR. JEFFERSON: I am going to refer  
11 your attention -- I am going to furnish counsel  
12 with a copy of the cease operations, Your  
13 Honor.

14 THE COURT: Okay. Is that marked?

15 MR. JEFFERSON: Not yet.

16 BY MR. JEFFERSON:

17 Q. So with respect to -- I am sorry?

18 MR. JEFFERSON: For the purposes of  
19 the record, Your Honor, this would be City  
20 Exhibit-7.

21 (City Exhibit-7 marked for  
22 identification.)

23 MR. JEFFERSON: May I proceed?

24 THE COURT: Yes.

25

1 BY MR. JEFFERSON:

2 Q. I am now referring your attention to what we  
3 are calling City-7. What is this document?

4 A. This is an intent to cease notice.

5 Q. What is the date on that?

6 A. The date of the notice is March 2.

7 Q. Of what year?

8 A. 2017.

9 Q. Now with respect to the cease operations

10 notice, does that notice bear a case number on the  
11 notice itself?

12 A. Yes.

13 Q. Does that case number match the case number on  
14 the violation notices?

15 A. Yes.

16 Q. Does that intent to cease operations order have  
17 a date when the cease operations will be effective?

18 A. Yes; April 12, 2017.

19 Q. Is that when the cease operations was  
20 effective?

21 MR. BERNARD: Again, Your Honor, I  
22 think this is a conclusion that one would have  
23 to draw after reading the entire violation  
24 notice.

25 THE COURT: Overruled.

1 MR. JEFFERSON: Thank you.

2 May I proceed, please, Your Honor?

3 THE COURT: You may.

4 BY MR. JEFFERSON:

5 Q. With respect to the actual cease operations  
6 that came about in April, is there anything that is  
7 physically done to the property by L&I?

8 A. We would go and put cease operation posters up  
9 and posted at the property.

10 Q. I am going to refer your attention to what I  
11 previously referred to as C-3, photographs.

12 THE COURT CRIER: They are pre-marked

13 8.

14 MR. JEFFERSON: I would ask Your  
15 Honor to strike that because C-3 is another  
16 exhibit.

17 THE COURT: That is fine. I mean, I  
18 am not going to strike it because that means  
19 the reporter has to go and -- this is an  
20 injunction hearing. I will disregard it.

21 MR. JEFFERSON: Thank you.

22 With your permission, I would refer  
23 to this then as City Exhibit C-8.

24 THE COURT: Has Mr. Bernard been  
25 given a copy?

1 MR. JEFFERSON: No, and these are  
2 photographs.

3 THE COURT: Well, at least show them  
4 to him.

5 MR. BERNARD: I have seen them, Your  
6 Honor.

7 THE COURT: All right. Thank you.  
8 So, are these different photographs  
9 than have already been testified to?

10 MR. JEFFERSON: No. That was just on  
11 cross-examination.

12 THE COURT: So you didn't mark them  
13 before?

14 MR. JEFFERSON: That's right.

15 THE COURT: Now I understand. Okay.

16 Thank you.

17 BY MR. JEFFERSON:

18 Q. Inspector Raudenbush, I ask you to take a look  
19 at them. You said that after the intent to cease is  
20 given, it is subsequently posted. What does C-8  
21 represent?

22 A. This is the cease poster that would have been  
23 posted at the property.

24 Q. Now with respect to the cease operations that  
25 has been implemented by the Philadelphia Department

1 of Licenses and Inspections, has that cease  
 2 operations ever been lifted?  
 3 A. No.  
 4 Q. To your knowledge and information, has that  
 5 cease operations been violated?  
 6 A. Yes.  
 7 Q. Relative to violations where a violation for  
 8 not having the proper use or zoning permits, does  
 9 the property owner, is anyone allowed to have  
 10 anything related to such illegal use upon a  
 11 property?  
 12 MR. BERNARD: Objection.  
 13 THE COURT: Sustained, and, also,  
 14 please pull the microphone closer to you. The  
 15 acoustics are horrible then this courtroom, so.  
 16 BY MR. JEFFERSON:  
 17 Q. So, who is the commissioner for the Department  
 18 of Licenses and Inspections?  
 19 A. Dave Perry.  
 20 MR. JEFFERSON: I am handing you what  
 21 will be the final exhibit in this case, Your  
 22 Honor, and this will be City Exhibit-9, C-9.  
 23 (C-9 marked for identification.)  
 24 MR. BERNARD: Can I have a copy?  
 25 THE COURT: Did you show Mr. Bernard?

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1 MR. JEFFERSON: I have nothing  
 2 further.  
 3 THE COURT: Okay. Cross-examine.  
 4 MR. BERNARD: Thank you, Your Honor.  
 5 CROSS-EXAMINATION  
 6 BY MR. BERNARD:  
 7 Q. Mr. Raudenbush, I want to ask you about the  
 8 violation notice that is marked as C-2. Do you have  
 9 that?  
 10 A. Yes.  
 11 Q. This is really a composite of many violations  
 12 notices, isn't it?  
 13 A. Seems to be multiple copies.  
 14 Q. Well, C-2 is a collection of violations  
 15 notices, is it not? I am asking about C-2.  
 16 A. I am sorry. Can you repeat that?  
 17 Q. Yes. C-2, what has been marked as C-2, is a  
 18 collection, composite exhibit of violation notices.  
 19 Looks to me like there are at least 20 violation  
 20 notices.  
 21 A. It all has the same violation number, all has  
 22 the same case number.  
 23 Q. But they are all different violations, right?  
 24 A. It is all the violations that are on that case.  
 25 Q. Different violations; is that correct?

1 MR. JEFFERSON: It is attached to his  
 2 pleading.  
 3 THE COURT: Well, you still have to  
 4 show him what you are using before you use it  
 5 for a witness; you know that that is what you  
 6 are supposed to do, number one, and, number  
 7 two, you know that this is a courteous  
 8 courtroom.  
 9 MR. JEFFERSON: Makes me want to say  
 10 something that I am not going to say.  
 11 THE COURT: Don't say it.  
 12 Next question.  
 13 BY MR. JEFFERSON:  
 14 Q. Referring your attention to the what the city  
 15 has marked as City Exhibit-9, is that a document  
 16 that is generated by the Department of Licenses and  
 17 Inspections?  
 18 A. Yes, this was.  
 19 Q. And in particular, who generated this  
 20 particular document?  
 21 A. It came from the commissioner's office, Dave  
 22 Perry.  
 23 Q. And this is relative to the cease operation  
 24 that has been violated?  
 25 A. Yes.

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1 A. Yes. There are multiple violations on that  
 2 case.  
 3 Q. Now let's take the first one. I am looking at  
 4 it. It says, "Obtain active hazardous material  
 5 license." Do you know whether or not Mr. Holton did  
 6 that?  
 7 A. There is, on 4087 Richmond, there are no  
 8 current licenses on the property.  
 9 Q. Do you know whether he has a hazmat license?  
 10 A. If we look at his property at 4085, there is  
 11 only one active license on that property and that is  
 12 for a scale and scanner license with Kevin Creedon's  
 13 name on it; that is the only active license on 4085.  
 14 Q. So you are saying that all of these violations  
 15 continue in effect and they haven't been corrected?  
 16 A. I have not done an inspection, but according to  
 17 the computer, nobody has complied the violations.  
 18 Q. The violation notice I am looking at is dated  
 19 March 2<sup>nd</sup>; is that correct?  
 20 A. Yes.  
 21 Q. Has the problem been back since March 2<sup>nd</sup> to  
 22 see whether or not the property is in compliance?  
 23 A. I don't know that.  
 24 Q. You don't. Who would I have to ask that  
 25 question to?



1 A. The case was not assigned to me.  
 2 Q. I am handing you what I am going to mark P-3.  
 3 Could you identify that?  
 4 A. That is a hazardous material handling license .  
 5 Q. Isn't it true that regardless of whether you  
 6 know it or someone else knows it, the Department of  
 7 Licenses & Inspections is aware that all of these  
 8 violation notices have been corrected?  
 9 MR. JEFFERSON: Objection.  
 10 THE COURT: Overruled.  
 11 MR. JEFFERSON: Can I please speak?  
 12 THE WITNESS: Could you repeat that  
 13 one more time, please?  
 14 BY MR. BERNARD:  
 15 Q. Referring to C-2, isn't it true that all of the  
 16 violation notices in C-2 for Mr. Holton's business  
 17 have been corrected? I am not talking about the  
 18 address; I am talking about his business.  
 19 A. The case on -- the violations for 4087 Richmond  
 20 Street are still open.  
 21 Q. Well, didn't you just identify a hazardous  
 22 material license?  
 23 A. Yes, but this license was expired as of  
 24 12/31/2017.  
 25 MR. JEFFERSON: For what address?

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1 A. Inspector DeGuglielmo.  
 2 Q. Sir, your testimony, as I understand it, is  
 3 that my client is operating without zoning and he is  
 4 also operating on city property. Is that the  
 5 conclusions that you have come to?  
 6 A. Yes.  
 7 Q. Now what, if anything, to your knowledge, has  
 8 the city done other than issuing violation notices  
 9 to remove a trespasser from the property, assuming  
 10 that is the case?  
 11 A. They have issued a cease operations.  
 12 Q. Based on Licenses & Inspections violations; is  
 13 that correct?  
 14 A. Correct.  
 15 MR. BERNARD: Thank you.  
 16 That's all I have.  
 17 THE COURT: Do you have anything  
 18 further?  
 19 MR. JEFFERSON: Very briefly.  
 20 THE COURT: Go ahead.  
 21 REDIRECT EXAMINATION  
 22 BY MR. JEFFERSON:  
 23 Q. I want to refer you to the license that you  
 24 have been questioned about by counsel for  
 25 Mr. Holton. Please take a look at that.

1 THE WITNESS: For 4085 Richmond.  
 2 THE COURT: Mr. Jefferson, do not do  
 3 that again. You asked the witness a question  
 4 during other counsel's cross-examination; that  
 5 is not proper. You will get another chance to  
 6 ask him questions.  
 7 All right. Next question,  
 8 Mr. Bernard.  
 9 MR. BERNARD: Thank you, Your Honor.  
 10 BY MR. BERNARD:  
 11 Q. I am looking at, again, C-2, and there is a  
 12 violation of extension cords that are strung along  
 13 the wall. Floor has to be removed and dedicated  
 14 wiring installed. Was that done?  
 15 A. I don't know.  
 16 Q. Who would know?  
 17 A. The inspector who would do the re-inspection  
 18 for the property.  
 19 Q. And has that occurred? Has he re-inspected the  
 20 property, the other inspector?  
 21 A. I can't tell you the last time he re-inspected  
 22 it, no, I can't tell you.  
 23 Q. Is he here in court?  
 24 A. No.  
 25 Q. He is not? What is his name?

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1 THE COURT: That is P-3?  
 2 MR. JEFFERSON: Yes, Your Honor.  
 3 BY MR. JEFFERSON:  
 4 Q. What is address for that expired license?  
 5 A. The license issued to 4085 Richmond Street.  
 6 Q. It is addressed to Final Destination -- who is  
 7 it addressed to?  
 8 A. The business name of Final Destination, Inc.  
 9 Q. With respect to the property at 4087 Richmond  
 10 Street, can Mr. Holton get any permit from the City  
 11 of Philadelphia?  
 12 MR. BERNARD: I am going to object to  
 13 that, Your Honor. I don't think this witness  
 14 has been qualified to give that kind of  
 15 testimony.  
 16 THE COURT: Sustained.  
 17 BY MR. JEFFERSON:  
 18 Q. As an inspector for the City of Philadelphia  
 19 who writes violations for zoning and for not having  
 20 hazardous materials licenses, can an applicant get a  
 21 license for a property that they don't own?  
 22 A. They would need the owner's approval to do so.  
 23 MR. BERNARD: So, the answer is yes.  
 24 I am sorry.  
 25 THE COURT: Next question.

1 Same admonishment that I directed to  
 2 Mr. Jefferson.  
 3 BY MR. JEFFERSON:  
 4 Q. So, can Mr. Holton get a permit or a license  
 5 for 4087 Richmond Street?  
 6 A. No, because the city is not giving him approval  
 7 to use that property.  
 8 MR. JEFFERSON: Thank you.  
 9 That is all I have, Your Honor.  
 10 THE COURT: Did you have any recross  
 11 based on that?  
 12 MR. BERNARD: No, I do not.  
 13 THE COURT: Do you have any other  
 14 witnesses?  
 15 MR. JEFFERSON: No, Your Honor.  
 16 THE COURT: Did you want to move any  
 17 --  
 18 MR. JEFFERSON: I would move to admit  
 19 all the exhibits; I believe it is C-1 through  
 20 C-9, into evidence.  
 21 THE COURT: Mr. Bernard, any  
 22 objections to any of those?  
 23 MR. BERNARD: No, Your Honor.  
 24 THE COURT: May the Court have the  
 25 exhibits, please? I already have C-5.

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1 That is where the licenses are to and that is the  
 2 only entrance to the property, is through Richmond  
 3 Street, which is showing on the map, but they have  
 4 it kind of like dotted out here, I guess, is what  
 5 they are --  
 6 Q. Well, what do you say?  
 7 A. They are dividing it when it is basically one.  
 8 They are actually showing 4087 being the creek, and  
 9 I am not on the creek, I am on 4085 Richmond Street,  
 10 which the entrance is through Richmond Street. And  
 11 just like houses where they have them where they  
 12 skip a digit, they told me to list both addresses in  
 13 it which would show them being side by side.  
 14 THE COURT: Let me just make sure  
 15 that I understand, Mr. Holton.  
 16 I am looking at this map C-5, and I  
 17 see Lewis Street, and then maybe about a  
 18 quarter of an inch above Lewis Street, there is  
 19 two lines. Is that some kind of road that you  
 20 enter?  
 21 THE WITNESS: The lines that are like  
 22 dotted with a pen or the lines in between that,  
 23 are you saying?  
 24 THE COURT: I am looking at the  
 25 intersection of Richmond and Lewis. So just

1 MR. JEFFERSON: With that, Your  
 2 Honor, the city would rest.  
 3 (City Exhibit-1 through City  
 4 Exhibit-9 moved in evidence.)  
 5 THE COURT: Thank you.  
 6 Mr. Bernard, do you have anything  
 7 else before argument?  
 8 MR. BERNARD: Yes, Your Honor.  
 9 I would like to call Mr. Holton in  
 10 redirect.  
 11 THE COURT: In rebuttal?  
 12 MR. BERNARD: Yes, in rebuttal.  
 13 THE COURT: Go ahead.  
 14 DIRECT EXAMINATION  
 15 BY MR. BERNARD:  
 16 Q. Mr. Horton, would you please explain to the  
 17 Court, referring to the map that has been identified  
 18 as C-5, what is the relationship, if any, between  
 19 4085 and 4087?  
 20 A. When I originally licensed this property, this  
 21 is 4085 Richmond Street.  
 22 Q. When you say this, what are you pointing to?  
 23 A. Pretty much the whole map here. Just like Your  
 24 Honor said, Richmond Street is Richmond Street; that  
 25 is our entrance to our property, is Richmond Street.

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1 below the pink rectangle that is identified as  
 2 4087 Richmond, there are two lines. Is that  
 3 how you enter your property?  
 4 THE WITNESS: No; that is actually a  
 5 corner, Your Honor. That is like a train  
 6 track, but where --  
 7 THE COURT: Let me do a better job  
 8 here. Where do you enter your property? Can  
 9 you describe on this diagram where you enter  
 10 your property?  
 11 THE WITNESS: Yes, Your Honor. Right  
 12 where it says 4087 Richmond, to the right of  
 13 that square that you are pointing out, I guess  
 14 it is like a pink-ish color square, that is my  
 15 entrance of my property.  
 16 THE COURT: But don't you have to  
 17 enter either from Richmond or from Lewis?  
 18 THE WITNESS: That is Richmond Street  
 19 right there.  
 20 THE COURT: Okay. All right.  
 21 Go ahead, Mr. Bernard.  
 22 BY MR. BERNARD:  
 23 Q. Having entered through Richmond Street, going  
 24 back and, obviously, avoiding the Frankford Creek,  
 25 do you occupy that property or up to Lewis Street?

1 A. Yes. My property runs along the Frankford  
 2 Creek, if that is what it is called.  
 3 Q. Can you identify Lewis Street on this map?  
 4 A. Yes. It is the last street to the end of the  
 5 map, right here.  
 6 Q. Is it your testimony that your property fronts  
 7 on Lewis Street all the way from Richmond Street to  
 8 what has been marked here as 4085 Richmond ; in other  
 9 words, does your property border on Lewis Street?  
 10 A. There is a rail line there, railroad, which is  
 11 like higher, so it like buffers it out on Lewis  
 12 Street. So, that is the divider between there and  
 13 our entrance is on Richmond Street.  
 14 Q. Has Conrail acknowledged or has Conrail deeded  
 15 anything to you?  
 16 A. Yes.  
 17 Q. Again, with respect to C-5, can you identify  
 18 anything on this map that you received by deed from  
 19 Conrail?  
 20 A. It is actually further down; that would be  
 21 further down on the map.  
 22 Q. Further down?  
 23 A. Yes. That is not on the map, Your Honor.  
 24 MR. BERNARD: Thank you.  
 25 That's all I have, Judge.

1 record of it. And I told my attorneys about it,  
 2 faxed them the paperwork, which, from my belief, is  
 3 something else that is going on right now, but at  
 4 that point my deed was transferred and I don't know  
 5 what was done or why it would have needed to be  
 6 transferred from me to the City of Philadelphia,  
 7 which kind of makes me think that things were done  
 8 with the deed. I am not an expert with it, but my  
 9 property is my property that I operate off of. I  
 10 have been there for 25 years. Never had any issues.  
 11 The city is building all around me at this the point  
 12 and I feel like they are just trying to keep  
 13 stealing away what they can from me. They took  
 14 Delaware Avenue, the street, from me, and they were  
 15 successful with building what they did there. I got  
 16 nothing out of it. I pay all my own attorneys fees;  
 17 they don't reimburse me. And it has just been  
 18 something that has been going on since 2006, and  
 19 just has taken a toll on me. And now they are  
 20 threatening in this letter to steal the property and  
 21 steal all my belongings; my equipment, my stuff that  
 22 I have worked for, because they want to build and  
 23 they don't want to do it the right way. They took  
 24 the street by condemnation, which is a form of  
 25 eminent domain, which I have researched because, you

1 THE COURT: Okay. Any cross?  
 2 MR. JEFFERSON: Just one question,  
 3 Your Honor.  
 4 CROSS-EXAMINATION  
 5 BY MR. JEFFERSON:  
 6 Q. Aside from the deed that has been testified to  
 7 by the chief surveyor for the City of Philadelphia  
 8 --  
 9 THE COURT: Microphone, please.  
 10 MR. JEFFERSON: Sorry.  
 11 THE COURT: That's okay.  
 12 BY MR. JEFFERSON:  
 13 Q. Aside from the deed that had been testified to  
 14 by the chief surveyor for the City of Philadelphia,  
 15 do you have any documentation at all that shows that  
 16 you are entitled or have any right to own or occupy  
 17 the property that we are referring to as 4087  
 18 Richmond Street?  
 19 A. Back in 2012, my deed was transferred out of my  
 20 name to the City of Philadelphia, which they had  
 21 told my attorney was a mistake ; then was transferred  
 22 back into my name, and I have the paperwork here,  
 23 Your Honor, and was transferred back into my name in  
 24 2015, which it was sent over to Linebarger Goggin,  
 25 which is for, like, a tax sale, and I never had

1 know, I am not an expert in it. I got no payment.  
 2 When they take it, you are supposed to get paid for  
 3 it. I have been harassed. I have every license  
 4 that they require me to get. They are playing with  
 5 this address, also, along with other things, and I  
 6 have been a target of the City of Philadelphia,  
 7 which there is other cases that is going on right  
 8 now that will probably come before Your Honor at  
 9 some point.  
 10 THE COURT: Mr. Holton, are you  
 11 saying that the deed that was entered into  
 12 evidence as C-6, that that is not the current  
 13 deed for the property?  
 14 THE WITNESS: I am saying they  
 15 transferred my deed back in 2012, Your Honor.  
 16 THE COURT: Answer my question. Are  
 17 you saying that you have a deed from 2015?  
 18 THE WITNESS: From 2012, which was  
 19 transferred, but I bought the property --  
 20 THE COURT: But then you said in '15,  
 21 it was transferred back to you, I thought?  
 22 THE WITNESS: Correct.  
 23 THE COURT: Do you have a deed from  
 24 2015 for this property?  
 25 THE WITNESS: I have just the letter

1 showing that the deed was from the fraud act  
2 where it was taken out of my name and  
3 transferred to the City of Philadelphia, which  
4 had nothing to do with me.

5 THE COURT: So, is the answer to my  
6 question no, I don't have a deed from 2015? I  
7 am just trying to understand. Do you have one  
8 or do you not have one?

9 THE WITNESS: I don't have a deed  
10 with me, Your Honor. I am sure there is a deed  
11 for the property that goes to this here.

12 MR. BERNARD: May I, Your Honor?

13 THE COURT: I lost track of where we  
14 are. You are still cross-examining?

15 MR. JEFFERSON: Yes, Your Honor. I  
16 don't know if you want me to tell you the  
17 question I had asked.

18 THE COURT: No; that's okay.

19 Mr. Bernard, you will have another  
20 chance to question him, but let's have

21 Mr. Jefferson finish his cross.

22 BY MR. JEFFERSON:

23 Q. Mr. Holton, with respect to the property at  
24 3085, the action that you are talking about was --

25 A. I don't own 3085. It is 4085, not 3085.

1 Q. I stand corrected on that. It is 4085.

2 With respect to the property at 4085,  
3 anything that you are talking about is what happened  
4 at 4087; is that correct?

5 A. No. It happened at 4085 and I have the  
6 paperwork.

7 Q. But you have nothing to show any right to  
8 possess/own the property that we are talking about  
9 for 4087; is that correct, sir?

10 A. Well, I showed you licenses; you say they are  
11 no good. I show you everything that you asked for.  
12 I have gathered every license that you cited me for  
13 over the years. So, apparently, no, I don't have  
14 anything that usually would be the right thing. So,  
15 in your eyes, I just wish that Your Honor was more  
16 familiar with the property and knew it as I do and  
17 then would see what is going on here.

18 MR. JEFFERSON: Thank you, sir.

19 I have nothing further, Your Honor.

20 THE COURT: Mr. Bernard, did you want  
21 to ask some further questions?

22 REDIRECT EXAMINATION

23 BY MR. BERNARD:

24 Q. On or about March 1<sup>st</sup>, 2012, did you receive  
25 a notice from the City of Philadelphia regarding the

1 transfer of title?

2 A. Yes.

3 MR. BERNARD: This would be P-6?

4 THE COURT CRIER: It is P-4.  
5 (P-4 marked for identification.)

6 BY MR. BERNARD:

7 Q. I direct your attention to the notice that you  
8 received. It says deed, it says the transfer --

9 THE COURT: Mr. Bernard, you don't  
10 have to read it into the record. He's  
11 identified the document. Are you moving it  
12 into evidence?

13 MR. BERNARD: Yes.

14 THE COURT: Okay. Mr. Jefferson, P-4  
15 has been offered into evidence.

16 MR. JEFFERSON: May I see it, Your  
17 Honor?

18 THE COURT: Yes, of course, you may.

19 MR. JEFFERSON: Thank you.

20 THE COURT: Do you have an objection  
21 to it being admitted into evidence?

22 MR. JEFFERSON: No, Your Honor.

23 THE COURT: Okay. P-4 is admitted  
24 into evidence.

25 Do you have any other questions?

1 MR. BERNARD: I do not.

2 THE COURT: Do you have any  
3 cross-examination?

4 MR. JEFFERSON: No, I do not, Your  
5 Honor.

6 THE COURT: May I have P-4, please.

7 Mr. Bernard, I will hear argument,  
8 assuming you have rested your rebuttal case.

9 MR. BERNARD: I have rested my  
10 rebuttal case.

11 THE COURT: Okay. I would like to  
12 see that, P-4.

13 All right. Go ahead.

14 MR. BERNARD: The document that has  
15 been identified as P-4 is sort of a universal  
16 notice that the department of records sent out  
17 every time a deed was recorded to make sure  
18 that there was no fraud involved.

19 So what Mr. Holton is referring to is  
20 a document that comes together with a recorded  
21 deed, and I believe his testimony, Your Honor,  
22 is that the property that was taken from him  
23 was deeded back to him.

24 THE COURT: Well, Mr. Bernard, if  
25 Mr. Holton is claiming that he owns 4087, why

1 hasn't he come into court with documentary  
 2 evidence of that ownership?  
 3 MR. BERNARD: Can I ask him a  
 4 question?  
 5 THE COURT: No. It is argument.  
 6 MR. BERNARD: Because, Your Honor, I  
 7 did not perceive that we would be litigating  
 8 title for the property. I understand there is  
 9 an issue with respect to addresses, but the  
 10 complaint that I filed for preliminary  
 11 injunction has to do with alleged violation  
 12 notices that lead up to a cease operations  
 13 order that has no foundation in fact in that  
 14 the violations do not exist and that when they  
 15 do exist, they are corrected.  
 16 What comes as somewhat of a surprise  
 17 to me is that the city is claiming that  
 18 Mr. Holton's operation is illegal because he  
 19 doesn't own the property, and if is that the  
 20 city's position, then I think it is probably  
 21 necessary for me to file a declaratory judgment  
 22 action, but we are not here on that today. We  
 23 are here to stop the city from putting  
 24 Mr. Holton out of business unless and until the  
 25 issue with respect to his compliance --

1 THE COURT: How do you explain the  
 2 fact that there was -- well, why hasn't he come  
 3 to court with unclean hands? How do you  
 4 explain the fact that there was a cease  
 5 operations order put in effect in March and,  
 6 even more serious, an order of this court, and  
 7 he testified that he continued operations  
 8 notwithstanding those orders.

MR. BERNARD: Well, Your Honor, I am  
 going to answer that question with the two  
 things separately. The cease operations order  
 states that there is a right of appeal.  
 Mr. Holton exercised that right of appeal.

THE COURT: Right, but did he ask for  
 a stay?

MR. BERNARD: Well, I am not sure  
 that the cease operations order isn't  
 self-executing. If you file an appeal to the  
 Board of Licenses & Inspections Review, I don't  
 believe that there is anything more that has to  
 be done. I understand Your Honor's question  
 and I didn't represent him before Board of  
 Licenses & Inspections, but I did represent him  
 in the prior proceeding, and Your Honor's  
 order, the foundation for that, is testimony

1 that he is polluting the Frankford Creek and  
 2 the only testimony you heard today is that  
 3 there is a potential for that.  
 4 THE COURT: But, Mr. Bernard, this  
 5 Court has never rescinded that order. There is  
 6 an order that denied your request for  
 7 injunctive relief and explicitly said no stay  
 8 of proceedings is granted. So, that means that  
 9 that underlying order was still in effect and  
 10 he just started up operations again.  
 11 MR. BERNARD: That is not the way I  
 12 understand it, Your Honor.  
 13 THE COURT: Well, explain it.  
 14 MR. BERNARD: Okay. The way I  
 15 understand it is he is entitled to due process.  
 16 So, the city comes along, does an inspection,  
 17 issues a violation notice. Mr. Holton  
 18 testified then and he testified now that he  
 19 corrected these violations and that,  
 20 nevertheless, even though he corrected the  
 21 violations, the city, again, almost a year  
 22 later, is coming back with another cease  
 23 operations notice, and, you know, he testified  
 24 --  
 25 THE COURT: But just because you

1 correct violations, that doesn't automatically  
 2 get rid of the cease operations order. You  
 3 have to communicate with L&I. L&I comes back  
 4 and inspects and it lifts the order.

MR. BERNARD: Right.

THE COURT: Well, that didn't happen.

1 There is no testimony about that. The only  
 2 testimony on the record is these violations are  
 3 still open at L&I.

MR. BERNARD: No, Your Honor. I  
 don't know at what point the record is  
 incomplete, but it is my understanding from my  
 client that he corrected the violations.

THE COURT: Yes, he testified to  
 that.

MR. BERNARD: And that the property  
 was re-inspected.

THE COURT: There is nothing on the  
 record about any re-inspection.

MR. BERNARD: Can I have a moment to  
 talk to my client.

THE COURT: Yes, you may.  
 (Inaudible discussion between  
 Mr. Bernard and his client.)

MR. BERNARD: While Mr. Holton is



1 looking for that -- can we take a brief recess,  
 2 Judge.  
 3 THE COURT: Actually, I have an  
 4 emergency pending, so that might be helpful for  
 5 everyone. How much time are you asking for?  
 6 MR. BERNARD: Ten minutes.  
 7 THE COURT: Okay. That is fine.  
 8 (At this point a recess was taken.)  
 9 THE COURT: Where are we?  
 10 MR. BERNARD: Yes. Judge, I want to  
 11 address that. I think we are in two places.  
 12 The first place is your order of April 13,  
 13 2017, and the second place is the urgent notice  
 14 that is attached to our motion for preliminary  
 15 injunction.  
 16 So, as to the first, which Your Honor  
 17 ordered on April 13, is that you denied the  
 18 motion for preliminary injunction and you  
 19 denied a stay of proceedings, and you did so  
 20 because of a code section, administrative code  
 21 section that says no stay shall be granted  
 22 where there exists a, quote, "Condition of  
 23 immediate danger or hazard to health, safety or  
 24 welfare which requires immediate compliance.  
 25 And you said the Court finds the city

1 established such a condition through credible  
 2 testimony and evidence. Your Honor did not  
 3 order Mr. Holton to do anything about it. You  
 4 simply denied his motion for preliminary  
 5 injunction because of that section of the  
 6 administrative code.  
 7 Today, we produced two exhibits; P-1  
 8 and P-2, which, I believe, are sufficient to  
 9 satisfy this Court that the condition of  
 10 immediate danger and hazard to health, safety  
 11 and welfare did not exist at the time and,  
 12 certainly, hasn't existed from the date of  
 13 those exhibits.  
 14 Now putting that issue aside, I want  
 15 to address this urgent notice. What troubles  
 16 me about this case and what I believe should  
 17 trouble the Court is doing something through  
 18 the back door. If my client is trespassing on  
 19 city property, there is all sorts of remedies  
 20 that the city can invoke, but, instead of that,  
 21 they have the Department of Licenses &  
 22 Inspections issue violation notices. Now my  
 23 client has corrected those violation notices  
 24 that are referred to in the --  
 25 THE COURT: But they put on evidence

1 that he doesn't own the property where he is  
 2 operating his business.  
 3 MR. BERNARD: Exactly, and that is  
 4 really the issue before the Court. I am not  
 5 sure that this is the way to do it. I don't  
 6 think that in adjudicating a motion for  
 7 preliminary injunction to prevent the city from  
 8 enforcing Licenses & Inspections orders, I  
 9 don't believe that that is the best way, I  
 10 don't believe it is any way to address the  
 11 issue of title and trespass on city property.  
 12 This business has been going on for 20 years.  
 13 I am not suggesting that there is adverse  
 14 possession, although that may be the case, but  
 15 it has been going on for 20 years.  
 16 If the city really believed that  
 17 Mr. Holton is operating a business on city  
 18 property and has been doing that for a long  
 19 time, then they should be ejecting him, filing  
 20 some sort of an action to quiet title or  
 21 whatever, but not issuing technical L&I  
 22 violation notices; that is not the way to do  
 23 it. And, Your Honor, I think that we are  
 24 entitled to injunctive relief because the city  
 25 is has premised its urgent notice, as Your

1 Honor just observed, on my client conducting a  
 2 business on property he doesn't own. This  
 3 isn't the way to do it, and until this issue is  
 4 resolved, even if we have to resolve it by  
 5 filing a declaratory judgment action, but until  
 6 it is resolved, he should not be shut down  
 7 because he is being shut down based on an  
 8 underlying issue, which really is not before  
 9 the Court. The only way it would be before the  
 10 Court is this testimony today that he is  
 11 operating on property he doesn't own, but the  
 12 best evidence of that would be the deeds, and  
 13 Mr. Holton has a deed to this property, which I  
 14 believe we have presented.  
 15 THE COURT: No. The only deed that I  
 16 am aware of having is C-6.  
 17 MR. BERNARD: Well, C-6 isn't a deed,  
 18 Your Honor, or maybe I am wrong.  
 19 THE COURT: Yes, it is. I am looking  
 20 at it.  
 21 MR. BERNARD: Is that a 2012 deed?  
 22 THE COURT: No. It is a 2004 deed.  
 23 I don't believe I have a 2012 deed in front me.  
 24 MR. BERNARD: Even if it is a 2004  
 25 deed, it is a deed.

1 THE COURT: But I have had testimony  
 2 from a surveyor saying that this deed does not  
 3 include the property where he is conducting at  
 4 least part of his business.  
 5 MR. BERNARD: Granted.  
 6 THE COURT: So, I mean, one of the  
 7 elements for obtaining an injunction is you  
 8 have to establish that your client's right to  
 9 relief is clear. So, what do I have in front  
 10 of me that shows that?  
 11 MR. BERNARD: Your Honor, there is a  
 12 communication from the department of records,  
 13 which I didn't feel was material, but maybe it  
 14 is. The communication from public records was  
 15 that a deed had been recorded and giving notice  
 16 to Mr. Holton to the recording of that deed.  
 17 THE COURT: That is part of the  
 18 record.  
 19 MR. BERNARD: Yes. The notice is  
 20 part of the record, but not the underlying  
 21 transaction.  
 22 THE COURT: Right, and Mr. Holton  
 23 testified that the property was transferred  
 24 back to him in 2015.  
 25 MR. BERNARD: Yes.

1 THE COURT: But I don't have that  
 2 deed in front of me. So, I can't make a  
 3 decision based on something that is not in  
 4 evidence.  
 5 MR. BERNARD: Well, can Your Honor  
 6 take judicial notice of a deed that has been  
 7 recorded in the city's records?  
 8 THE COURT: I don't think so. You  
 9 know, I don't have access to those documents.  
 10 MR. BERNARD: Well, then, Your Honor,  
 11 we would respectfully request that the case be  
 12 allowed to remain open so that we could submit  
 13 that deed because it is the best evidence.  
 14 THE COURT: The Court isn't competent  
 15 to just read a deed and figure out where that  
 16 property is. I mean, are you saying that you  
 17 don't want me to decide the motion based on  
 18 what is in front of me?  
 19 MR. BERNARD: That's correct, Your  
 20 Honor.  
 21 If the city is presenting the  
 22 evidence of a surveyor and we have a deed,  
 23 which we have not yet presented, if we have  
 24 leave to present, then I think it would be  
 25 incumbent upon us to show that the city's

1 surveys are correct by our own surveyor for the  
 2 very reason the Court just mentioned. So, yes,  
 3 we would like the case to remain open for that  
 4 reason.  
 5 THE COURT: Well, I think the  
 6 appropriate thing to do would probably be to  
 7 withdraw the motion without prejudice, and I  
 8 will admit this is for my own administrative  
 9 purposes because it sits open if I don't do  
 10 something with it.  
 11 MR. BERNARD: Well, the problem with  
 12 that, Your Honor, is that then the city is  
 13 going to shut my client down and we need to  
 14 address that.  
 15 THE COURT: Well, when do you think  
 16 you are going to come back with this deed? I  
 17 don't sit next week. So, the first available  
 18 time on my calendar would be a week from  
 19 Monday.  
 20 MR. BERNARD: That would be  
 21 satisfactory.  
 22 MR. JEFFERSON: May I address the  
 23 Court?  
 24 THE COURT: Yes, of course.  
 25 Mr. Jefferson, go ahead.

1 MR. JEFFERSON: Respectfully, Your  
 2 Honor, this case concerns one property, 4087  
 3 Richmond Street, not 4085. The documents that  
 4 were handed up by --  
 5 THE COURT: Is the green light on, on  
 6 that microphone?  
 7 MR. JEFFERSON: It is.  
 8 THE COURT: I am still not picking  
 9 you up.  
 10 MR. JEFFERSON: Well, I will sit  
 11 down, and I thought the sound system was better  
 12 here.  
 13 THE COURT: It is better. You are  
 14 just not speaking loudly enough.  
 15 MR. JEFFERSON: Okay. So, this case  
 16 has been brought to you by counsel in a  
 17 petition where he is talking about the deeds,  
 18 he is talking about the deeds in his pleading.  
 19 We brought the surveyor to say definitively,  
 20 definitively to this Court, this is the deed  
 21 for 4085.  
 22 THE COURT: But then there was  
 23 testimony about a subsequent fraudulent deed  
 24 and a second subsequent deed, and your witness  
 25 didn't address any of that.

1 MR. JEFFERSON: Look at that, because  
 2 it only concerns 4085 Richmond Street. 4085  
 3 Richmond Street operates off its own deed.  
 4 Anything that is subsequent to 4085 is  
 5 addressed to their deed that you have before  
 6 Your Honor, which is the deed for 4085. There  
 7 is no deed for 4087 and there is no deed for  
 8 4087 because --  
 9 THE COURT: But what I understand  
 10 Mr. Holton is arguing is that he owns the whole  
 11 shabang, that whether you call it 4085 or  
 12 4085-87 or whatever that Delaware Avenue  
 13 address is, that, I mean, his contention, I  
 14 believe, is that he owns the property between  
 15 Delaware Avenue and Richmond Street and Lewis,  
 16 and I don't know how, I don't know if he  
 17 contends he goes to Adams or he just contends  
 18 he goes to the creek, but that is his  
 19 contention. I am not entering an injunction  
 20 today based on the record in front of me  
 21 because --  
 22 MR. JEFFERSON: But --  
 23 THE COURT: Don't interrupt, I know  
 24 you are dying to, but -- because it is their  
 25 burden to show their right to relief is clear

1 and I don't see this record as clear at this  
 2 point that Mr. Holton owns 4087. But  
 3 injunctions can always be revisited; they are  
 4 equitable in nature, so if -- I mean, I am  
 5 going to hear what you have to say, but he is  
 6 always going to have the right to come back  
 7 with a deed and ask for another hearing.

8 MR. JEFFERSON: If such a thing  
 9 existed, then that would be here today. If  
 10 such a thing existed, that would be here today.  
 11 Counsel brought this action, not the city.  
 12 Counsel, the petitioner, brought this action to  
 13 prove that they have a right to occupy 4087  
 14 Richmond Street.

15 THE COURT: Okay. Well, let me ask  
 16 you a question. Since I have already said I am  
 17 not entering an injunction today, what more do  
 18 you need the Court to know?

19 MR. JEFFERSON: For the record, zip,  
 20 I am pulling a zipper across my lip, okay?  
 21 That is all. It seems like the Court does  
 22 know. The Court does know that 4085 does not  
 23 include the deed and there is no deed, no deed  
 24 out there that exists anywhere, according to  
 25 our evidence from the surveyor.

1 THE COURT: Well, all your surveyor  
 2 testified to was this deed. He did not testify  
 3 as to whether he did any kind of investigation  
 4 as to whether anything happened after that  
 5 deed; that is just not in the record,  
 6 Mr. Jefferson.  
 7 MR. JEFFERSON: I know, but what is  
 8 in the record is that the property that we are  
 9 referring to that Mr. Holton is operating on is  
 10 within the City of Philadelphia's right of way,  
 11 that cannot be deeded outside of the city, no  
 12 matter what the evidence is, that is, and that  
 13 was in 1951, before Mr. Holton came onto the  
 14 scene. That was there in 1951, and there is  
 15 nothing, anything, anything relating to  
 16 Mr. Holton's property at 4085, anything, will  
 17 never, ever be a part of 4087.  
 18 THE COURT: Here is what I am going  
 19 to do. I am not going to enter an order today.  
 20 Mr. Bernard, you have until  
 21 5:00 o'clock on Wednesday of next week to  
 22 submit any document that you wish the Court to  
 23 consider. If another deed from 2015 is  
 24 submitted, is filed as of record with the Court  
 25 by 5:00 o'clock on next Wednesday, I will

1 schedule another hearing in my next court week.  
 2 If no such document is filed, I will decide the  
 3 motion based on what is in front of me. So  
 4 that is my ruling for today and you are all  
 5 excused.

6 MR. BERNARD: Thank you for your  
 7 time, Judge.

8 MR. JEFFERSON: Thank you.  
 9 (At this point this matter was  
 10 recessed.)  
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1  
2 I HEREBY CERTIFY THAT THE PROCEEDINGS AND EVIDENCE ARE  
3 CONTAINED FULLY AND ACCURATELY IN THE NOTES TAKEN BY ME  
4 ON THE TRIAL OF THE ABOVE CAUSE, AND THAT THIS COPY IS A  
5 CORRECT TRANSCRIPT OF THE SAME.

6  
7 ANN C. MULLEN, R.P.R.  
8 OFFICIAL COURT REPORTER  
9 COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

10 THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT  
11 APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS  
12 UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE  
13 CERTIFYING COURT REPORTER.

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**BY MR.**

**BERNARD: [26]**

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**BY MR.**

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**JEFFERSON:**

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